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**Analysis of the Department of Labor's Role in Advancing Farmworker
Wages**

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**Analysis of the Department of Labor's Role in Advancing Farmworker
Wages**

by

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Dedication

This report is dedicated to the students at Van Buren Intermediate School District: Project NOMAD who were the inspiration for this research and have given me hope that change is possible. Thank you for teaching me humility and the power of working together to create change.

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I would like to acknowledge Dr. Erin Lentz who worked tirelessly to help me make this report a reality. I would also like to acknowledge Dean Evans who always made me feel that working on policy related to farmworkers was an important and valuable contribution to the policy world. I would also like to acknowledge all my colleagues at the LBJ School who helped me verbalize my thoughts during late night work sessions. I would also like to acknowledge Jose Torres and Osvaldo Lopez who helped constantly remind me of the importance of looking at policy through a critical lens. And finally, I would like to acknowledge Crystal Elissetche, my students, and their families who inspired me to work in the service of others with humility and hope.

Abstract

Analysis of the Department of Labor's Role in Advancing Farmworker Wages

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The University of Texas at Austin, 2016

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This report describes farmworker wages since 1989 and assess what factors affect these wages. Two questions are answered: (1) What factors affect farmworker wage? (2) And what steps can the Department of Labor take to ensure equitable wages? The research found that several factors affect farmworker wages including gender, race, citizenship, legal exemptions, and the historical normalization of low wages paid on farms. The report concludes with recommendations for the Department of Labor on further research and policy solutions.

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Chapter 1. Introduction

Delores Huerta, farmworker advocate said, “Every single day we sit down to eat breakfast, lunch, and dinner, and at our table we have food that was planted, picked, or harvested by a farm worker. Why is it that the people who do the most sacred work in our nation are the most oppressed, the most exploited?” Many advocates and researchers have asked this question. Huerta’s observation has informed the research questions for this report, which looks to answer the following:

1. What factors affect farmworker wages?
2. And what steps can the Department of Labor take to ensure equitable wages?

These are broad questions, to which entire bodies of literature could be devoted. This paper has summarized some of the most glaring problems related to farmworker wages. In Section 1, I begin by describing farmworker incomes, the methods by which farmworkers are paid, and the significance of researching this topic. In Section 2, I outline some of the factors affecting: demographic factors (such as race and ethnicity, citizenship, and gender) as well as inequitable employer practices (exemptions from labor laws, payment methods and wage theft). In Section 3, I examine the historical purpose of the Department of Labor and its success in achieving its stated mission. I end this chapter by assessing whether DOL has historically been effective at achieving its mission to ensure the welfare of and advance the opportunities for farmworkers. I conclude this report by discussing recommendations conclusions. From this research, I determined that certain legal exemptions prevent DOL from guaranteeing that farmworkers advance economically. Furthermore, while laws exist to guarantee certain workers a livable wage, DOL has been reactive rather than proactive in enforcing these laws.

At the conclusion of this research, I am left with more questions than I had at the start of this project. I now have a deeper understanding of the circumstances that lead to farmworkers’ low wages. Through this research, I have realized that these factors are not

as neatly siloed as my chapters might suggest. Many of these factors intersect with each other, resulting in what Huerta called oppression and exploitation. And yet this report does not wish to demean the profession of farmwork. To quote Delores Huerta again, “Professional farmworkers who know how to do a number of different jobs... see themselves as professionals... They don’t see themselves as doing work that is demeaning.” This report intends to highlight the systemic structures that lead to oppressive conditions. Farmworkers resilience and persistence to rise above these systemic obstacles will be the enduring lesson for me, as a researcher. The acknowledgement of workers’ resistance is not meant to glorify or obfuscate the real struggles these workers face, nor is it meant to obscure the responsible parties’ role. Rather, acknowledging workers’ resiliency is meant to recognize their individual agency in fighting for their own dignity and rights. This report intends to analyze whether government agencies can guarantee farmworkers a more hopeful economic future by executing laws that were intended to protect them.

Chapter 2. Methodology & Limitations

METHODOLOGY

I answered these research questions by analyzing data from the Department of Labor's (DOL) National Agricultural Workers Survey (NAWS), U.S. Department of Agriculture statistics, Wage and Hour Division (WHD) Enforcement Data, and Office of Foreign Labor Certification (OFLC) Data. I did not conduct a regression analysis of farmworker wages because I am not able to create a model that would have been mathematically rigorous to guarantee valid conclusions given the time allotted for this project. Given this constraint, I thought it would have been academically disingenuous to present any type of regression analysis as if it were factually accurate. Therefore, I used descriptive statistics in order to describe farmworkers' wages and how these wages differed amongst various demographic factors. In other words, I merely used the data to describe the differences amongst gender, legal status, and race and ethnicity. I do not use statistics to explain what factors are causing these discrepancies.

I conducted a literature review in order to understand factors that cause the discrepancies amongst farmworker wages. The literature review consisted of following: peer reviewed journals, congressional testimony, Governmental Accountability Office (GAO) reports, ethnographies, farmworker memoirs, reports written by advocates like the Southern Poverty Law Center (SPLC), and interviews of farmworkers from documentaries. All of these sources were used to include the voice of farmworkers. Qualitative interviews could not be conducted specifically for this report due to time constraints. However, I felt it was important to include the voice of farmworkers in this report, and therefore used interviews from the literature review to fill this research gap.

In addition, to literature from workers and their advocates, I researched DOL reports, memos, administrative law, and implementation guidelines in order to understand how DOL has viewed its role in executing wage and labor laws that relate to farmworkers. I used WHD enforcement data to evaluate if DOL was efficient in enforcing labor laws that were relevant to farmworkers. WHD has collected enforcement

data on farmworkers since 2008. Again, I did not conduct regression analysis, but used descriptive statistics to illustrate the extent to which DOL has enforced certain labor laws.

LIMITATIONS

The National Agricultural Workers Survey (NAWS) is the most reliable quantitative data source on farmworkers. However, despite its wide spread use, NAWS data on farmworkers may not be an entirely accurate reflection of the true farmworker population. NAWS selects interviewees through a stratified multi-stage sampling method.¹ The methodology is stratified for two reasons. First, the interviews take place at three times throughout the year: February, June and October.² However, despite interviewers' best efforts, simply sampling at specific times when agricultural activities are most likely to occur does not guarantee that NAWS will capture accurate data. For example, watermelon is one of the largest handpicked crops in Oklahoma and workers only pick it in the last few weeks of July. It is important to consider regions and times of year because these factors vary greatly across states. Therefore, despite selecting three different times of year, large numbers of workers may not in fact be represented at all.

Second, NAWS uses stratified sampling in order to ensure workers from all regions within the United States are sampled.³ NAWS samples from 12 regions, which are based on the U.S. Department of Agriculture's (USDA) 17 agricultural regions. In 1988, NAWS chose to reduce the number of regions to 12 because they found that certain regions had similar crop patterns.⁴ The number of interviewees selected within each region are proportional to the size of the region's labor force at the given time of year.⁵ NAWS interviewers sample 1,500 workers on the national level each year, which allows

¹ National Agricultural Workers Survey, *Collection of Information Employing Statistical Methods*, <https://www.doleta.gov/agworker/..%5Cpdf%5CNAWS%20Statistical%20Methods%20AKA%20Supporting%20Statement%20Part%20B.pdf>.

² Ibid.

³ Ibid.

⁴ Ibid.

⁵ Ibid.

for roughly 125 interviews per region with flexibility in that number for seasonal labor changes.⁶ However, if NAWS collapses regions from 17 to 12 based on crop patterns, they may have not considered whether workers' demographic characteristics are similar across regions. See Appendix B for a map of the 12 regions.

NAWS determines the number of interviews assigned per region based on USDA's Farm Labor Survey (FLS). All statistical knowledge about farms' employment and wages stems from FLS.⁷ Therefore, NAWS' sampling method would not necessarily reflect an accurate sample of eligible farms to interview if the FLS survey does not accurately collect information on farm employment. USDA conducts the FLS twice a year in April and October.⁸ USDA divides farm data into four time periods, January, April, July and October.⁹ Information on January is collected during April and information on July is collected in October.¹⁰ Similar to NAWS there would be limitations to the accuracy of the data because certain types of employment may not be captured during the sampling time frame. FLS collects its data using a dual frame method.¹¹ The two frames are a list frame and an area frame. The list frame is a list of all farms and ranches that sell more than \$1,000 a year. The area frame is a list of all land in the United States.¹² USDA surveyors select samples from both the list frame and area frame and weight their selections to estimate the larger farmworker population.¹³

FLS surveyors collect survey data via paper survey, an electronic phone interview, or through the web.¹⁴ Surveyors typically call growers before they request

⁶ Ibid.

⁷ National Agricultural Statistics Service. *Farm Labor Methodology and Quality Measures*. (Washington DC: United States Department of Agriculture, December 5, 2013).

⁸ Ibid.

⁹ Ibid.

¹⁰ Ibid.

¹¹ Ibid.

¹² Ibid.

¹³ Ibid.

¹⁴ Ibid.

growers to complete the survey.¹⁵ The National Agricultural Statistics Services (NASS) states that “Most of the data are collected by phone follow-up interviews from NASS Data Collection Centers using CATI (Computer Assisted Telephone Interview).”¹⁶ If FLS surveyors collect most data using an electronic, automated phone service this could skew the quality of responses as well as growers’ accuracy in reporting data. If NAWS administrators determine the number of interviews per region given FLS estimations, then NAWS’ stratified sampling method may not accurately reflect the true farmworker population.

NAWS’ most important limitation is that workers are interviewed at their workplace with their employers’ permission.¹⁷ In 2009, 44% of employers did not allow their workers to participate in the surveying process.¹⁸ NAWS interviewers surveyed 59% of the 66% that agreed to participate.¹⁹ Furthermore, NAWS staff try to encourage employer participation and claim they have been able to increase the participation rate by gaining endorsements from “employer organizations”.²⁰ NAWS attempts to increase grower participation by claiming that “JBS International Inc. –Aguirre Division [contracted organization to conduct survey] has no connection to any union organization.”²¹ (See Appendix A for sample letter requesting grower participation). In claiming no connection to union organization, JBS and by extension NAWS can claim they are in a neutral position because they are not advocating for the worker. However, in claiming neutrality, NAWS passively consents to the power structures that already exist. As Howard Zinn, author of a *People’s History of the United States: 1492 to Present*, stated in an interview, “I don’t believe it’s possible to be neutral. The world is

¹⁵ Ibid.

¹⁶ Ibid, 3.

¹⁷ National Agricultural Workers Survey, *Collection of Information Employing Statistical Methods*.

¹⁸ Ibid.

¹⁹ Ibid.

²⁰ Ibid. 14.

²¹ Department of Labor, Sample letter to agricultural employer,
https://www.doleta.gov/agworker/pdf/NAWS_Sample_Letter_to_Agricultural_Employer.pdf.

already moving in certain directions. And to be neutral, to be passive in a situation like that is to collaborate with whatever is going on.”²²

It is unclear exactly what employer organizations means, however, if this term means grower associations (a group of employers working in a similar crop who come together to set crop prices and work to solve shared problems) then this could create inaccuracies within the data because this endorsement could indicate that surveyors are more likely to be influenced by growers. This influence could mean that surveyors are more likely to incorporate the growers’ perspective into the survey structure, select workers that growers would approve, or incorporate growers’ perspectives into the interpretation of the results.

Once interviewers select workers, workers agree to participate 92% of the time. NAWS surveyors pitch workers to participate in both Spanish and English and pay workers \$20/hr. for their participation.²³ However, some workers may not be able to participate if the surveyors only speaks English and Spanish. Today, many of the poorest paid workers are indigenous and do not speak Spanish well enough to be able to participate in the survey. (See Appendix C for Copy of Survey used & Appendix D for promotional materials used to recruit workers)

The final limitation to NAWS’ survey is the weighting of certain worker characteristics.²⁴ NAWS weights part time workers more than full time workers in order to account for the probability that a full time worker is more likely to be selected than a part time worker. NAWS argues this is an appropriate adjustment because part time workers are less likely to be selected than full time workers.²⁵ Furthermore, NAWS analysts adjust data for certain seasons when the surveyor could not reach the worker.²⁶

²² “Howard Zinn: ‘To Be Neutral, To Be Passive to Collaborate with Whatever is Going On.’” Democracy Now, April 27, 2015.

²³ Ibid.

²⁴ Ibid.

²⁵ Ibid

²⁶ Ibid.

If the worker could not be contacted, analysts will assume that the employment history at that time from the previous year is similar to the current year.²⁷ These types of assumptions are understandable given the constraints with seasonal workers, however, these assumption could also skew data and make wage analysis difficult to conduct using this data.

²⁷ Ibid.

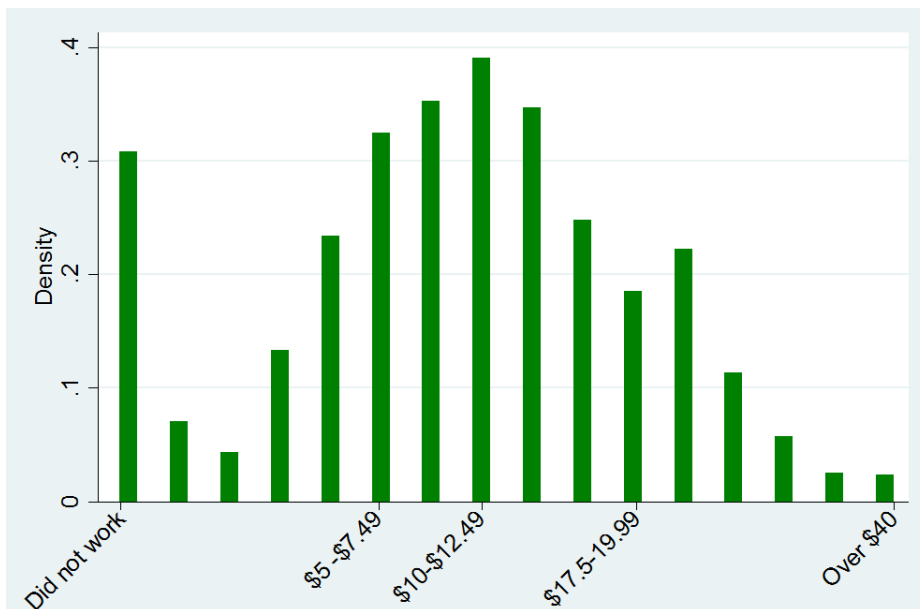
SECTION 1: CHARACTERISTICS OF FARMWORK & SIGNIFICANCE

Chapter 3: Farmworker Wages

CHARACTERISTICS OF THE WORK

Income

The median farmworker income ranges from \$10,000 to \$12,499 a year according to the Department of Labor's National Agricultural Workers Survey.²⁸ Figure 1 is a histogram of farmworker income. The graph is normally distributed indicating that the median farmworker income is not skewed due to outliers. In other words, there are not instances where a select few workers are earning a significantly higher or lower income than the typical worker, thereby shifting the average higher or lower than the true median farmworker income.



²⁸ Employment and Training Administration, National Agricultural Workers Survey, 2016, Department of Labor, <https://www.doleta.gov/agworker/naws.cfm#d-tables>.

Figure 1: Total Individual Income for Farmworker (Last Year Worked)²⁹

Hours Worked

Wages are adjusted for inflation in order to determine whether the value of a dollar in the current year is worth more or less than the previous period. Inflation is calculated using the Consumer Price Index (CPI). CPI is a group of goods that a typical urban resident would purchase in a given year. The Bureau of Labor Statistics (BLS) includes the following categories of goods in their CPI: Food, Housing, Apparel, Transportation, Medical Care, Recreation, Education & Communication, and Other Goods & Services.³⁰ BLS determines if prices are rising at a rate that makes the value of a dollar worth less by calculating the change in CPI prices. Inflation is important to take into consideration when evaluating the change in wages over time because even though wages are rising, they may not be rising at a rate that accounts for a change in prices. If wages are not rising at a rate that accounts for inflation, it decreases an individual's purchasing power. Purchasing power is the ability of an individual to buy goods. When a wage is adjusted for inflation it is called a real wage. Figure 2 shows the disparity between nominal wages and real wages for hourly workers over 23 years.

²⁹ Ibid.

³⁰ Department of Labor. *Consumer Price Index*. <http://www.bls.gov/cpi/cpifact8.htm>

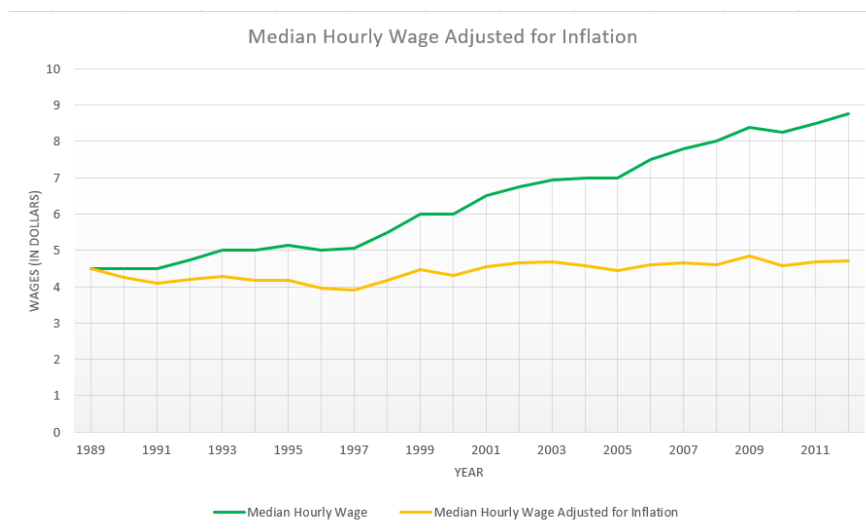


Figure 2: Median Real Wages for Hourly Workers³¹

In 1989, workers earned a nominal, median wage of \$4.50/hr., compared to 2012, when workers earned \$8.75/hr. However, when wages are adjusted for inflation, workers in 2012 earn a real wage of \$4.72/hr. Therefore, hourly workers have only seen a \$0.22 increase in purchasing power over 23 years (less than a \$0.01 a year). If farmworker wages have stagnated, are farmworkers working longer hours in order to compensate for wage stagnation? One worker Bernardo, described his hours to an interviewer:

“I have my pains because of so much work. Ay; so much work... In ‘laska, we work 16 hours, no! Seven days a week. No rest for 2 months. Then maybe 10 hours or 8 hours a day 7 days a week for 2 more months. Ay! So much work!”³²

It seemed that according to NAWS, the number of hours worked by farmworkers varied greatly from worker to worker. A typical farmworker works 43 hours a week.³³ On the following page, Figure 3 shows the range that 25% of individuals worked less than 37

³¹ Employment and Training Administration, National Agricultural Workers Survey

³² Holmes, Seth M. *Fresh Fruit, Broken Bodies: Migrant Farmworkers in the United States*. California: University of California Press, 2013.107.

³³ NAWS.

hours a week or worked more than 50 hours a week. Ten percent of people worked more than 60 hours.

While many workers like Bernardo work more than 40 hours a week, NAWs data suggests that most workers do not work that many hours. However, this figure only accounts for actual hours worked and does not account for travel to and from the worksite, which can be up to 100 miles away.³⁴ The Coalition of Immokalee Workers (CIW), a workers' rights, advocacy organization in Florida, provides a timeline for a typical workday for a farmworker in Immokalee, Florida. A worker begins their day by packing lunch in their trailer at 4:30 AM.³⁵ By 5:00 AM, the worker begins looking for work at a parking lot or similar location where a farm labor contractor (FLC) will hire them for a job.

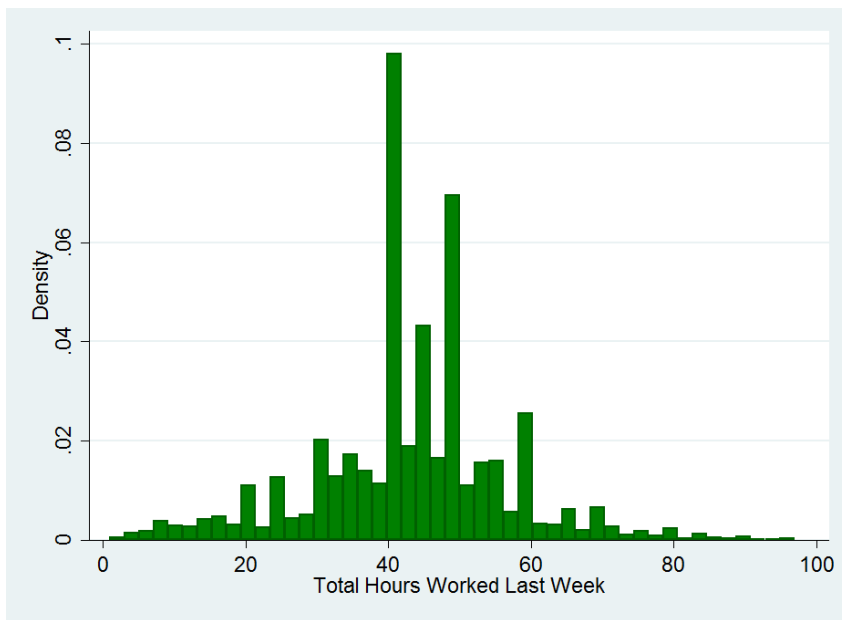


Figure 3: Total Hours Worked Last Week³⁶

³⁴ Coalition of Immokalee Workers. *Facts and Figures on Florida Farmworkers*. http://ciw-online.org/wp-content/uploads/12FactsFigures_2.pdf.

³⁵ Ibid.

³⁶ Employment and Training Administration, National Agricultural Workers Survey.

A FLC arrives around 6:30 AM to select the number of workers he needs that day.³⁷ Grower hire a farm labor contractor (FLC) to find workers at a predetermined wage set by the grower or FLC.³⁸ Workers typically begin working by 9:00AM, break for lunch quickly at midday, and end work at 5:00 PM.³⁹ People sometimes work longer than 5:00 PM, if it is peak harvest time.⁴⁰ A typical worker could arrive home between 5:30 PM and 8:00 PM, depending upon the day.⁴¹ Therefore while NAWS data may be accurately accounting for actual hours worked, it may not account for additional hours that are unique to a farmworker's work day like travel and looking or waiting for work. And yet despite this discrepancy in NAWS' description of hours versus CIW's explanation of hours worked, it does not seem that all farmworkers are working more hours today than they were several years ago.

Piece Rate

Growers do not pay all of their workers a fixed, hourly wage. Some workers are paid through a piece rate system. In the words of DOL, "A piece rate is the amount of money paid per task performed".⁴² For example, in rural Washington, growers pay farmworkers \$0.14 per pound of strawberries picked.⁴³ Growers can pay the worker by the amount of crop picked in accordance with Section 14(c) of the Fair Labor Standards Act (FLSA).⁴⁴

³⁷ Ibid.

³⁸ Martin, Philip & Vaupel, Suzanne. "Farm Labor Contractors." California Agriculture 40 no. 3 (1986): 12-15. Accessed March 5, 2016. <https://ucanr.edu/repositoryfiles/ca4003p12-62924.pdf>.

³⁹ Ibid.

⁴⁰ Ibid.

⁴¹ Coalition of Immokalee Workers. *Facts and Figures on Florida Farmworkers*. http://ciw-online.org/wp-content/uploads/12FactsFigures_2.pdf.

⁴² Department of Labor. *Determining the Commensurate Wage when Paying a Piece Rate Under FLSA Section 14(c)*. <http://webapps.dol.gov/elaws/whd/flsa/14c/18e.htm>.

⁴³ Holmes, Seth M. *Fresh Fruit, Broken Bodies: Migrant Farmworkers in the United States*. 72.

⁴⁴ Department of Labor. *Determining the Commensurate Wage when Paying a Piece Rate Under FLSA Section 14(c)*. <http://webapps.dol.gov/elaws/whd/flsa/14c/18e.htm>.

Growers determine the piece rate in accordance with DOL guidelines. According to these guidelines, the grower must first identify the tasks required to do the job. Second, the grower must identify how the worker will complete the task and select a standard setter. A standard setter is a worker who is experienced at picking by the piece and can “perform at or close to 100 percent productivity”.⁴⁵ The grower should ideally identify three standard setters, and then count how much they pick during one hour.⁴⁶ DOL recommends that the standard setters work at a rate that could be maintained over a long period of time.⁴⁷ In addition, breaks and fatigue should be taken into account when setting the rate.⁴⁸ Once the grower has timed the standard setters, he/she must calculate the average unit picked during that hour.⁴⁹ This average becomes the standard unit that a worker should be required to pick during one hour.⁵⁰ Once the standard unit is determined, the employer should take the minimum wage and divide it by the average unit of crops picked.⁵¹ If growers use the average unit picked as the measurement to determine the rate, then all workers who fall below the average (roughly 50%) will struggle to meet the average rate. Therefore, using the average piece rate ensures that roughly half of all workers will consistently struggle to meet the standard rate and minimum wage requirements.

The Tanaka farm in rural Washington is a prime example of how growers implement piece rate on a farm. The minimum wage in Washington is \$9.47 and the Tanaka family pays the piece rate workers \$0.14 per pound of strawberries. Assuming DOL policies are employed, the standard worker on this farm should pick roughly 67 pounds of strawberries per hour ($\$9.47/\$0.14 = 67$ pounds).⁵² However, the worker does

⁴⁵ Department of Labor. *Conducting Work Measurements of Jobs that will be Paid a Piece Rate Under FLSA Section 14(c)*. <http://webapps.dol.gov/elaws/whd/flsa/14c/18c4.htm>

⁴⁶ Ibid.

⁴⁷ Ibid.

⁴⁸ Ibid.

⁴⁹ Ibid.

⁵⁰ Ibid.

⁵¹ Ibid.

⁵² Department of Labor. *Minimum Wage Laws in the States – January 1, 2016*. <http://www.dol.gov/whd/minwage/america.htm#Washington>.

not have to earn the minimum wage for each hour worked through piece rate pay.⁵³ The Equal Justice Center states that FLSA only requires that “earnings for all hours worked in the workweek must be sufficient to bring the average hourly wage up to the minimum wage rate.”⁵⁴

The nominal piece rate wage has risen since 1989. A typical worker earned \$6.51/hr. in 1989, but in 2012, that worker earned \$9.41/hr. Superficially, it would appear that the worker’s wage and purchasing power increased over time. However, once the wage is adjusted to account for inflation, the median piece rate wage remains relatively flat between 1989 and 2012, as seen in Figure 4. Once inflation is taken into account, a worker who earned \$9.41/hr. in 2012 has a real wage of \$5.10/hr. This disparity between the nominal wage and the real wage indicates that the 2012 wages did not match rising prices. Therefore, despite workers’ wage increases, the individual actually earns less today than he/she earned in 1989 when they were received \$6.51/hr.

⁵³ Beardall, Bill. *Outline of Fair Labor Standards Act 29 U.S.C. §§201 et seq.: In Agriculture and Related Employment*. Edited by Greg Schell. Austin, TX: Equal Justice Center & Migrant Farmworker Justice Project, 2014.

⁵⁴ Ibid, 15.

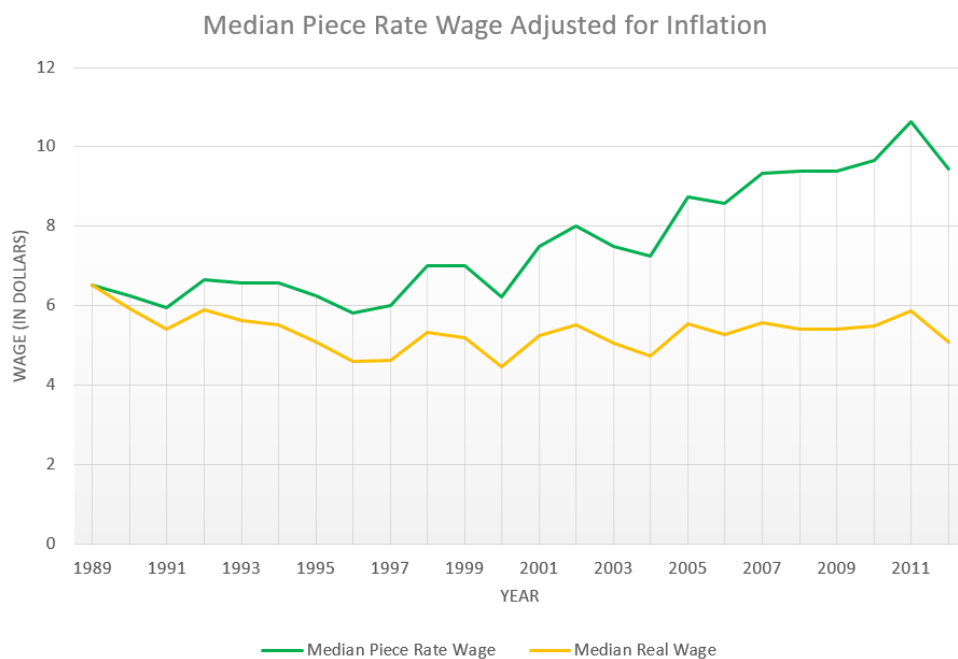


Figure 4: Median Piece Rate Wage Adjusted for Inflation

Overtime

Fifty percent or more of all farmworkers would qualify for overtime pay if they work a median of 43 hours a week. DOL acknowledges, “Virtually all employees engaged in agriculture are covered by [the Fair Labor Standards Act]”.⁵⁵ However, DOL explicitly states that “The following are examples of employees exempt from the overtime pay requirements only: ... farmworkers” under the Fair Labor Standards Act (FLSA).⁵⁶ Exemption from overtime decreases farmworker wages and take home pay because workers are not entitled to earning time and a half.

⁵⁵ Wage and Hour Division, Fact Sheet#12: Agricultural Employers Under the Fair Labor Standards Act (FLSA), <http://www.dol.gov/whd/regs/compliance/whdfs12.pdf>.

⁵⁶ Ibid.

SIGNIFICANCE OF LOW INCOMES AND LOW WAGES

For 2016, the United States Department of Health & Human Services states that an individual is living at the poverty line when they earn \$11,880 a year.⁵⁷ Therefore, a median farmworker lives at the 2016 poverty line, and 50% of all farmworkers live below the 2016 poverty line. However, while some workers do not live below the poverty line, many only earn marginally more than \$11,880 a year. In other words, a worker could earn \$11,881 and not be considered statistically below the poverty line. Therefore, while roughly 50% of workers do not live below the poverty line, many more live just above that line and still face economic challenges.

When farmworkers earn so little income, they resort to, what many people who have never earned so little income as, a desperate solution: sending their children to the fields to supplement their wages. One non-profit in west Michigan interviewed two family members, a mother and son, who worked in the fields for many years. Both described the economic challenges as exhausting. The son recalled, “as soon as [my siblings and I] were old enough, my dad would take us all out [to the fields] ...I felt like I had a sentence.”⁵⁸ Another farmworker interviewed for the film recalled that at six years old she helped her father hoe the fields. She remembered that “I was so small that I started in one row and instead of going straight, I went into another row.”⁵⁹

Sending children to work in the fields in order to earn supplemental income is not uncommon. In the documentary *La Cosecha*, a young girl between the ages of 10-15 picked onions in La Cinea, TX. After realizing her family struggled to earn enough income to survive, she told her mother, “We need the money, so I was just like mom I can go help you.”⁶⁰ In the film, she woke up every day at 5AM to stoop and cut onions for 12

⁵⁷ U.S. Department of Health & Human Services. *U.S. Federal Poverty Guidelines Used to Determine Financial Eligibility for Certain Federal Programs*. <https://aspe.hhs.gov/poverty-guidelines>.

⁵⁸ *Journeys: Stories from Van Buren*. Directed by Maureen Anway. United States, 2013. DVD. 31:22.

⁵⁹ Ibid.

⁶⁰ *The Harvest/La Cosecha: The Story of the Children who Feed America*. U. Roberto Romano. United States: Shine Global, 2011. DVD 94:42.

hours a day, earning what she thinks is \$64 a week. (she does keep track of her wages because they are included on her mother's paycheck).⁶¹

Children working in the fields is symptomatic of low incomes amongst farmworkers as the stories above described. Furthermore, the high percentage of total farmworkers living below or just above the poverty line reveals that farmworker poverty is not random or unique to a select few workers. The descriptive statistics indicate that poverty is innate to the very nature of farmwork as it is structured today. However, this is not to say that farmwork must always result in impoverishing workers. On the contrary the following chapter analyzes what factors could be contributing to low wages with the intention to mitigate those factors that contribute to farmworker poverty. The hope is that if these factors can be understood, then farmwork can be reimagined and reformulated in order that workers can economically prosper while working in the fields.

⁶¹ Ibid.

SECTION 2: FACTORS AFFECTING FARMWORKER INCOME & WAGES

Chapter 4: Inequitable Employer Practices

The following chapter outlines inequitable employer practices that affect farmworker wages and incomes. These factors include piece rate manipulation, wage theft, and minimum wage exemptions relating to minimum wage, age, overtime, and shepherding and ranching. Each of these factors result from the power that growers or FLCs have in the fields. Growers' and FLC's power create an environment in which farmworkers can be taken advantage. Not all growers or FLCs use this power to manipulate and abuse workers. However, this chapter outlines ways in which certain growers could and have instituted inequitable practices that have resulted in the lowering of farmworker wages and income.

PIECE RATE

Growers have argued in favor of piece rate because they contend that

“piece-rate pay suggests firms may be able to adjust their variable costs by altering work standards and the piece rate itself. Another argument holds that piece-rate systems can economize on the cost of monitoring worker output, that such systems are a substitute for management.”⁶²

In other words, when growers pay workers by the amount that they harvest (piece rate) they can control for cost that vary (variable costs). Variable costs are costs that change depending on the amount of goods produced by the employer. In the case of farms, variable costs would be costs related to the amount of crops harvested. For growers, labor is a variable cost because the amount of labor needed to harvest the crop varies depending on the amount of crop produced. The opposite of a variable cost is a fixed cost, which does not change regardless of the amount of good produced. For example, insurance that a grower purchases is known from month to month, unlike labor costs.

⁶² Skelton, B.R. & Yandle, Bruce “Piece Rate Pay.” *Journal of Labor Research* 3:2 (1982) 201-210. 1.

Growers want to be able to control variable costs so that they do not have to pay large sums unexpectedly. For example, if a grower were to have an in particularly good year, they may have to hire more harvesters than they were planning. In order to avoid these unexpected costs, growers could lower piece rates in order to control for an unexpected increase in labor costs. Piece rate pay allows growers to control labor costs legally because they do not have to drop an hourly wage below the legal minimum wage required.

Furthermore, piece rate pay decreases growers' management costs because workers pick quickly because they know that they must meet minimum wage. If they do not meet minimum wage, then they are fired. Piece rate therefore acts as a motivator and does not require as many managers in the field to motivate workers and ensure that they are picking at the desired pace. This is best demonstrated in Hart, Michigan where one worker stated at a public forum that "'If you pick too little to make the piece rate, you are fired. If you pick too much, the owner will just lower the piece rate.'"⁶³ Therefore, growers use piece rate as a way to control costs and mitigate risk that would otherwise vary greatly across workers.

One grower asked Vlastic Inc. to raise their contract cucumber rates because an employee who worked for him for 25 years had quit due to low piece rate wages.⁶⁴ Farmworkers' and even some growers' accounts indicate that the level of expected productivity is unrealistic and/or the rate itself is too low, despite the fact that DOL guidelines recommend that the piece rate should "reflect normal productivity".⁶⁵ Piece

⁶³ Michigan Department of Civil Rights. *A Report on the Conditions of Migrant and Seasonal Farmworkers in Michigan*. http://www.michigan.gov/mdcr/0,4613,7-138-4954_47773-235607--,00.html.

⁶⁴ Michigan Department of Civil Rights. *A Report on the Conditions of Migrant and Seasonal Farmworkers in Michigan*. http://www.michigan.gov/mdcr/0,4613,7-138-4954_47773-235607--,00.html

⁶⁵ Department of Labor. *Conducting Work Measurements of Jobs that will be Paid a Piece Rate Under FLSA Section 14(c)*. <http://webapps.dol.gov/elaws/whd/flsa/14c/18c4.htm>

rate workers in Florida earn \$0.40 to \$0.45 per 32-pound bucket of tomatoes.⁶⁶ At that rate, growers expect workers to “pick around two tons of produce (125 buckets) to earn [\$50]”.⁶⁷

Despite these difficulties, some workers look for piece rate jobs because it is possible to earn above minimum wage when harvesting certain crops. Earning above minimum wage hinges on whether the worker is skilled at picking the particular crop as well as the piece rate set. Bruce Neuburger recalled from his time of picking broccoli in California with D’Arrigo that, “you could at least take solace in the running count in your head of bins filled with product bouncing its way out of the fields and calculate its worth in dollars per hour.”⁶⁸ However, if the farm experiences a bad crop due to weather conditions, this can significantly affect a worker’s pay. While Neuburger sought out piece rate pay for the higher wage, he remembered that earning high wages when the crop was smaller than expected due to bad weather was difficult. He described those moment as, “times [when] the bins just lingered forever beneath a shower of broccoli.”⁶⁹ Therefore, while piece rate might result in higher wages, it is heavily dependent on the season and the crop.

However, pay is not the only factor that determines whether a worker earns piece rate pay. Oftentimes workers prefer hourly work because there is not the same level of physical demands. Neuburger raises this important tension between better pay and the exhaustive physical strength required for piece rate work. He remembers a friend describing his attempt to harvest celery by piece rate, “If I’m still alive, don’t blame the work for it. It’s done it’s best to kill me!”⁷⁰ Alfredo, a son of Michigan farmworkers,

⁶⁶ Bauer, Mary. “Ending Abuses and Improving working conditions for Tomato Workers.” Testimony presented to the committee on health, Education, Labor and Pensions. Washington D.C., April 15, 2008.

⁶⁷ Ibid.

⁶⁸ Neuburger, Bruce. *Lettuce Wars: Ten Years of Work and Struggle in the Fields of California*. New York, NY: Monthly Review Press, 2013. 50.

⁶⁹ Neuburger, Bruce. *Lettuce Wars*. 50.

⁷⁰ Ibid, 49.

remembered his mother telling his father, “This is such hard work ...Why? You know. Why? It’s endless, this row of blueberries.”⁷¹ Neuberger recalled that when he began working as a farmworker he started on an hourly crew made up of older men, teenage boys, and women.⁷² Middle-aged men were not typically found on crews paid by the hour because most of them worked piece rate jobs.⁷³ Therefore, while workers can earn above minimum wage it does not come without a high physical cost.

These workers experience high rates of various medical problems. One farmworker reported in an interview to Seth Holmes for the book *Fresh Fruit, Broken Bodies* that after one week of farmwork, “Mi cuerpo ya no puede sentir nada” (My body can no longer feel anything).⁷⁴ Another told the author that “Siempre me duelen” (her knees, back, and hips always hurt).⁷⁵ The repetitive motions of chopping, picking, tossing the crop into the bin can manifest in physical injuries and pains. In another of Holmes’ case studies, a worker felt something come loose in his kneecap while moving down a row of strawberries, which he described as extremely painful.⁷⁶ He continued to work, but was only barely able to make the minimum weight required by the growers because the pain slowed his work pace.⁷⁷ Piece rate work can often result in these types of injuries, even though it can yield higher wages for certain crops. However, workers are by no means guaranteed higher wages if they are paid by the piece.

As noted before, workers earn roughly \$9.41/hr., \$0.66 more on average than their hourly counterparts who earn \$8.75/hr. Some piece rate workers can earn higher wages if they pick at incredibly fast rates. Ten percent of piece rate workers earn \$12.44/hr. or more, according to NAWS. Therefore, 90% of piece rate workers earn roughly the same,

⁷¹ *Journeys: Stories from Van Buren*. Directed by Maureen Anway.

⁷² Neuberger, Bruce. *Lettuce Wars*.

⁷³ Ibid.

⁷⁴ Holmes, Seth M. *Fresh Fruit, Broken Bodies: Migrant Farmworkers in the United States*. 89.

⁷⁵ Ibid, 89.

⁷⁶ Ibid.

⁷⁷ Ibid.

or only slightly more, than their hourly counterparts; and, while the marginally higher wage rate might be economically significant for workers, the wage increase comes at a high physical cost.

To conclude, growers use piece rate to manage their own costs. Some workers look for piece rate work in order to earn higher wages. However, on average the piece rate worker typically only earns \$0.66 more per hour than an hourly worker. Moreover, piece rate work typically has high physical costs associated with the work. These physical costs can result in high medical costs for the worker since workers typically do not have health insurance. Therefore, while piece rate may increase wages for certain workers it does not seem to do so broadly. Rather, piece rate seems to be most advantageous for growers who gain the advantage of controlling their labor costs while motivating workers to pick at exorbitantly fast rates.

WAGE THEFT

Wage theft includes failing to pay workers the minimum wage, overtime pay, or for all hours worked. From 2007 to 2015, there have been 524 open and closed wage theft cases filed by farmworkers. Figure 5 maps wage theft violations across the United States. Since 1999 there were 3,626 total case violations according to Wage and Hour Division (WHD) Compliance Action Data. It is possible for one case to have multiple violations. Of those total case violations, WHD investigators assessed \$1,113,368.29 in back wages owed to employees.

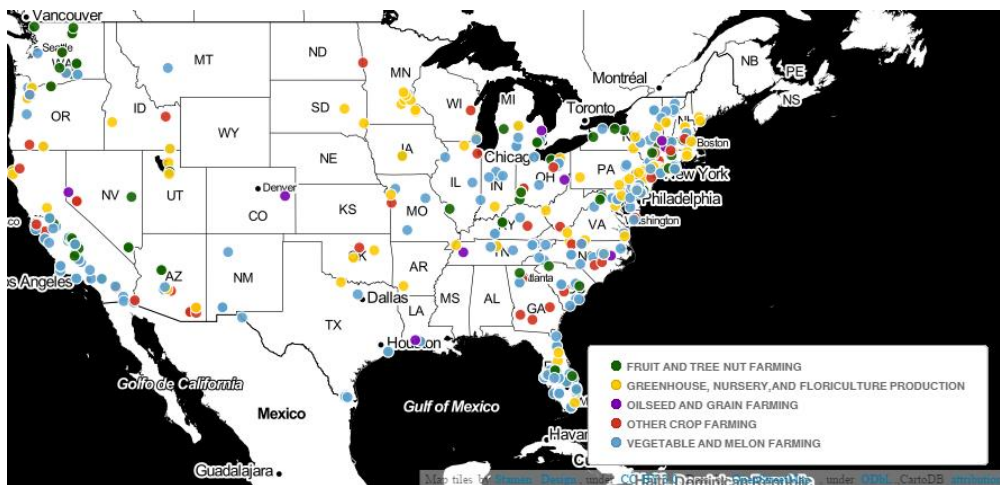


Figure 5: Map of Wage Theft in United States from 1999 – 2014⁷⁸

WHD enforces the Fair Labor Standards Act (FLSA) the Migrant and Seasonal Agricultural Workers Protection Act (AWPA also known as MSPA), H-2A law, and Equal Employment law. Under each of these laws, workers could be owed back wages. Back wages (also known as back pay) “is an order that the employer make up the difference between what the employee was paid and the amount he or she should have been paid.”⁷⁹ Back wages could be awarded under any of these laws for a variety of reasons. For example, if a worker experiences discrimination and loses wages based on the account of that action, the worker could receive the wages they would have earned if the discriminatory action had not taken place.

Of the total case violations, there were 998 Fair Labor Standards Act (FLSA) violations. WHD assessed \$642,383.75 in back wages and \$234,297.58 in overtime back wages. There have been 1,273 total Migrant and Seasonal Agricultural Worker Protection Act (AWPA) violations. Under AWPA, workers earned \$62,407.46 in back wages. Finally, WHD found 1,282 total violations in cases involving H-2A workers. In

⁷⁸ Wage and Hour Division, Wage and Hour Compliance Action Data, http://ogesdw.dol.gov/views/data_summary.php.

⁷⁹ Department of Labor, Back pay, <https://www.dol.gov/general/topic/wages/backpay>.

those cases, WHD awarded \$427,262.87 in back wages. See Table 1 for a chart of these violations.

	FLSA	FLSA Overtime	AWPA	H-2A	TOTAL
Total Case Violations	998	n/a	1,273	1,282	2,555
Back Wages Owed	\$642,383.75	\$234,297.58	\$62,407.26	\$427,262.82	1,366,251.41
Civil Monetary Penalties Assessed	\$0	n/a	\$263,406.25	\$80,212.50	356,705.75

Table 1: WHD Enforcement of Labor Laws

Of all cases processed since 2007, WHD found violations in 58.2% of all cases, meaning that 41.8% of cases had no violations at all. WHD found that 21.6% of all cases had FLSA violations, 6.8% had FLSA overtime violations, 39.5% had AWPA violations, and 9.9% had H-2A violations. See Figure 6 for labor law case violation comparisons. Figure 16 indicates that DOL has recorded the most violations under AWPA and recorded the fewest under FLSA's child labor laws.

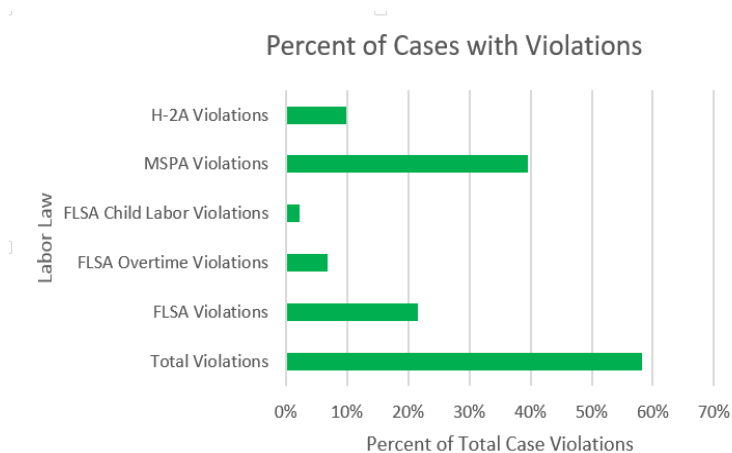


Figure 6: Percent of WHD Cases with Violations⁸⁰

H-2A workers are especially vulnerable to wage theft from employers due to their inability to switch employers if the grower abuses or exploits them. This will be discussed later in chapter 5. According to the Government Accountability Office, one-third of all complaints to DOL's Wage and Hour Division (WHD) were related to wage theft.⁸¹ From 2009 – 2013, DOL determined that growers owed \$8,541,901 to H-2A workers in total back wages.⁸² In 2013, the average back wage owed per investigation was \$41,767, and the median back wage owed per investigation was \$3,998.⁸³ Furthermore, as the number of work order requests has increased in the last several years so has the size of the back wages assessed. The median back wages owed per investigation in 2012 was \$2,838, whereas in 2013 the median back wage owed was \$3,998.⁸⁴ That is a 40.9% increase in one year. There is high variation in the median back wages owed per investigation. For example, from 2011 to 2012, there was a 7% decrease in back wages assessed by WHD, and from 2010 to 2011 there was a 43.2% increase.⁸⁵ This wide variation indicates that there are a significant number of violations, but the amount back wages assessed is highly dependent on the case.

To conclude, WHD enforcement data suggests that wage theft does occur on farms. However, this data cannot be used to determine the number of actual cases of wage theft in the United States. There is no way to know if there is in fact more or less wage theft occurring on farms. However, what can be said after analyzing this data is that some growers commit wage theft against their workers. Wage theft can typically

⁸⁰ Wage and Hour Division, Wage and Hour Compliance Action Data, http://ogesdw.dol.gov/views/data_summary.php.

⁸¹ U.S. General Accounting Office. *H-2A and H-2B Visa Programs*.

⁸² Ibid.

⁸³ Ibid.

⁸⁴ Ibid.

⁸⁵ Ibid.

result in a decrease in \$3,899 in wages, which is a 31.2% to 39% reduction in overall income to workers (if the worker earns median income).

NEW DEAL EXCLUSION: BEGINNING OF LEGAL EXEMPTIONS

Prejudice towards farmworkers of different races and ethnicities played a key role in crafting minimum wage exclusions during the New Deal. In 1938, Congress passed and President Roosevelt signed the Fair Labor Standards Act (FLSA) as a part of the New Deal package in order to address a failing economy and household incomes.⁸⁶ FLSA granted minimum wage protections to workers, created overtime pay, and regulated record keeping of wages for employers.⁸⁷ Congressmen, mostly from the Deep South, were particularly concerned with FLSA's effect on the agricultural sector, and made a concerted effort to exclude agricultural labor from FLSA's protections.⁸⁸ These exclusions still exist to this day.

Southern Democrats from the Deep South with wealthy grower interests at heart had significant power in Congress by occupying committee chairs in the New Deal Congress.⁸⁹ Roosevelt faced the following challenges from Dixie-crut congress:

“The combination of a seniority rule determining access to congressional influence, a one-party political tradition below the Mason-Dixon line, and Democratic weakness outside the South prior to 1930 resulted in legislative hegemony for the advocates of white supremacy.”⁹⁰

Southern Districts held the Agriculture Committee chair, the Appropriations Committee Chair, and the Finance Committee chair in the House of Representatives.⁹¹ All of whom were from South Carolina, Virginia, and Mississippi, respectively.⁹² In the House of

⁸⁶ Linder, Marc. “Farm Workers and the Fair Labor Standards Act: Racial Discrimination in the New Deal.” *Texas Law Review* 65.7 (1987): 1335-1393.

⁸⁷ Ibid.

⁸⁸ Ibid.

⁸⁹ Ibid.

⁹⁰ Ibid, 1351.

⁹¹ Ibid.

⁹² Ibid.

Representatives, Southern Democrats had the Agriculture Committee chair, Ways and Means Committee Chair.⁹³ Both Representatives were from the South (Texas and North Carolina).⁹⁴ In addition, the Majority Leader and Speaker of the House were from Alabama and Texas.⁹⁵ By the time Congress had drafted FLSA legislation, agricultural exemptions were not even debated due to Southern Democratic dominance.⁹⁶

The Southern Democrats were interested in maintaining a more modern version of the plantation system in order to continue the profitable agricultural model that had been in place since slavery.⁹⁷ Prior to Congress' consideration of FLSA legislation, Florida, Georgia, North Carolina, South Carolina and Alabama had essentially made it a crime to leave a farm before the work was complete, thereby ensuring a disenfranchised supply of cheap labor.⁹⁸ FLSA was a direct assault on wealthy grower's easy access to labor.

Therefore, Southern Democrats ensured that agricultural workers would be excluded from earning the minimum wage if:

- the employer has employed workers in agriculture for less than 500 days in the previous year, which is "[equivalent to] seven full-time employees employed throughout the calendar year" (29 U.S.C. §213 (a)(6)(A))⁹⁹
- the worker is harvesting crops by hand, is paid by piece rate, is employed in a position pays by the piece, is not living on the farm, and has worked in agriculture for less than 13 weeks in the previous year (29 U.S.C. §(a)(6)(C))¹⁰⁰
- the grower works in forestry and employs eight or fewer employees

⁹³ Ibid.

⁹⁴ Ibid.

⁹⁵ Ibid.

⁹⁶ Ibid.

⁹⁷ Ibid.

⁹⁸ Ibid.

⁹⁹ Beardall, Bill. *Outline of Fair Labor Standards Act 29 U.S.C. §§201 et seq.* 9.

¹⁰⁰ Ibid.

Southern Democrats intentionally excluded farmworkers from FLSA on the basis of race. These attitudes stemmed from decades of discriminating against farmworkers in slavery and post-slavery. These historical events still have effects for farmworkers today because the FLSA exemptions above still exist for workers. As a result, farmworkers' wages are still affected by these legal exemptions that benefit growers.

AGE

Congress also created FLSA exemptions for workers younger than 16 years of age. Chapter 3 discussed a young girl that went to work in the fields in order to help add additional income to the family. However, even if children are sent to work in the fields they are not necessarily eligible to be paid the minimum wage. In 1938, Congress exempted children 16 years and younger from earning less than minimum wage if the following applies:

- if a worker is living away from their home, is under 16 years of age, is harvesting crops by hand, is being paid by the piece, is working in a position that is typically paid on a piece rate basis, is working on the same farm as a parent, and is paid with the same rate as a worker who is over 16 years old (29 U.S.C. §213(a)(6)(C))¹⁰¹
- if the worker is 16 years or younger, working on the same farm as their parents, harvesting crops by hand, are being paid by the basis in piece rate jobs, and have worked in agriculture for less than 13 weeks the previous year.¹⁰²

In addition, in 1996 Congress passed a FLSA amendment that called for an opportunity wage which allowed workers 20 years old and under to earn a “sub-minimum wage” of \$4.25 per hour during the first 90 days of their employment.¹⁰³ Many argue that this last amendment “Effectively locks most seasonal workers under 20 in a *permanent* subminimum wage”.¹⁰⁴

¹⁰¹ Ibid.

¹⁰² Ibid.

¹⁰³ Beardall, Bill. *Outline of Fair Labor Standards Act 29 U.S.C. §§201 et seq.* 11.

¹⁰⁴ Ibid, 12.

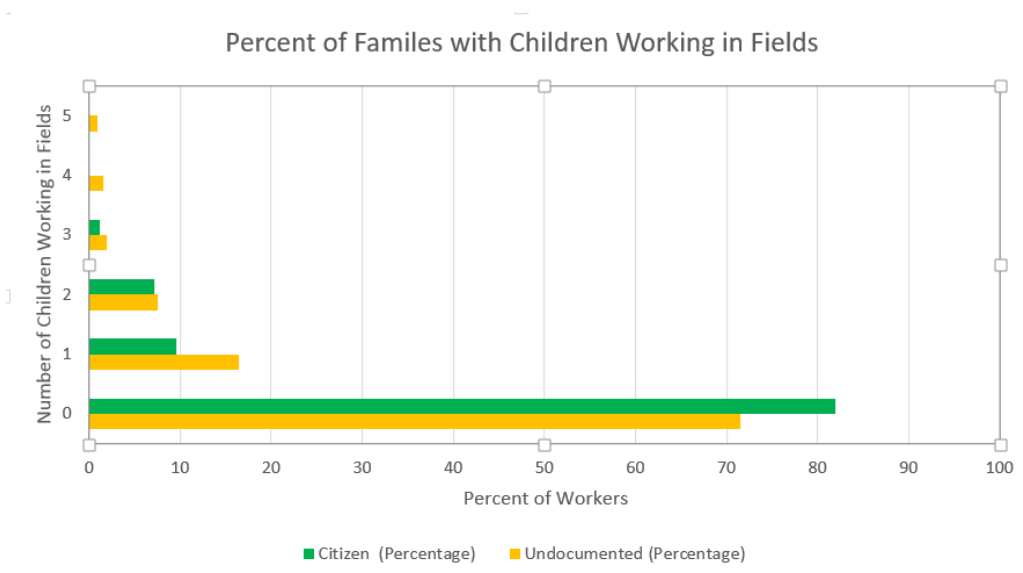


Figure 7: Percent of Families with Children Working in Fields¹⁰⁵

According to NAWs, these exemptions would affect 3-6% of all farmworkers (see Figure 7). Furthermore, if children were in fact working in the fields in order to supplement their parents' income, these exemptions would have deleterious effects for their families as well.

SHEEPHERDING & RANCHING

Congress also passed exemptions that specifically apply to H-2A workers. Growers can file for exemptions that exclude them from paying the Adverse Effected Wage Rate (AEWR). The AEWR is a wage that is higher than the minimum wage and determined based on U.S. Department of Agriculture Statistics.¹⁰⁶ Congress created the AEWR during the Bracero Program in order to prevent the depression of wages.¹⁰⁷ The Bracero Program was a treaty between Mexico and the United States that allowed growers to hire contract

¹⁰⁵ Employment and Training Administration, National Agricultural Workers Survey

¹⁰⁶ Southern Poverty Law Center, *Close to Slavery*, <https://www.splcenter.org/20130218/close-slavery-guestworker-programs-united-states#abuses>.

¹⁰⁷ Ibid.

workers from Mexico. Congress was worried that hiring contract Mexican workers would depress wages, so they created the AEW. ¹⁰⁸

The H-2A exemptions are similar to the FLSA exemptions created in 1938. Growers that hire livestock and shepherd H-2A workers are exempt from paying an hourly AEW, and instead are allowed to pay workers on a weekly, semi-monthly or monthly basis. ¹⁰⁹ This wage exemption comes from Field Memorandum 74-89 issued on May 31, 1989 by DOL's Employment and Training Administration (ETA). ¹¹⁰ The memorandum provided exemptions to range and shepherding H-2A workers because of "the unique occupational characteristics of shepherding, the special legislative and administrative history in operating the program and the multi-State role the Western Range Association (WRA)... assumed in the certification process". ¹¹¹ An agricultural association is a group of farmers, growers or ranchers that can contract H-2A workers on behalf of an individual grower. ¹¹² These exemptions were eventually extended to all employers contracting range and shepherding workers, as indicated in a Special Procedures Report by the ETA. Granting special procedures to certain farmworker employers is legal under The Immigration and Nationality Act of 1965 Part 655 Section 102. This section grants the Office of Foreign Labor Contracting Administrator power to "establish, continue, revise or revoke special procedures". ¹¹³ This power was upheld in *United Farm Workers v. Solis* when District Judge Ricardo M. Urbina determined that the United Farm Workers had "failed to demonstrate that the DOL's actions were arbitrary, capricious, an abuse of

¹⁰⁸ Ibid.

¹⁰⁹ Proposed Rule. "Temporary Agricultural Employment of H-2A Foreign Workers in the Herding or Production of Livestock on the Open Range in the United States." *Federal Register* 80, no 72 (April 15, 2015): 20300-20343. <http://webapps.dol.gov/FederalRegister/PdfDisplay.aspx?DocId=28194>.

¹¹⁰ McConnel, Wendy & Jacobs-Simmons, Lenita, Field Memorandum No. 24-01, August 1, 2001, Special Procedures: Labor Certification for Shepherders and Goatherders Under the H-2A Program, Regional Administrators, Employment and Training Administration. 1-3.

¹¹¹ Ibid. 2.

¹¹² U.S. Citizenship and Immigration Services. INA: Act 218- Admission of Temporary H-2A Workers, <https://www.uscis.gov/ilink/docView/SLB/HTML/SLB/0-0-0-1/0-0-0-29/0-0-0-4944.html>.

¹¹³ Temporary Employment of Foreign Workers in the United States as of March 24, 2016, Offered Wage Rate, *Code of Federal Regulations*, title 20 (2016): <http://www.ecfr.gov/cgi->

discretion or not in accordance with any law.”¹¹⁴ These special procedures allow range and sheepherding workers to be on call 24 hours a day, 7 days a week.¹¹⁵

Furthermore, the monthly rate for sheepherding as governed by the special procedures is \$750 a month.¹¹⁶ Therefore an H-2A sheepherder would earn \$4.69/hr. if they were to work 8 hours a day for 5 days a week for 4 weeks. The \$4.69/hr. AEWR is lower than the \$10.35/hr. AEWR and the Texas’ minimum wage of \$7.25/hr. This exemption dramatically lowers farmworkers’ incomes. If a worker were to earn \$750 a month for 12 months, they would earn an annual income of \$9,000, \$1,000 (10%) less than the median income for an average farmworker. In 2014, Judge Bryl Howell of the United States District Court for the District of Columbia concluded in *Mendoza et al. v. Perez* that “TEGLs (administrative special procedures) adversely affect herders by lowering wages and worsening working conditions”.¹¹⁷ Both California and Oregon found that range and herding workers had been adversely affected. California passed a law that created the Industrial Welfare Commission that would proportionally raise wages for sheepherders when the minimum wage rose.¹¹⁸ Oregon recognized the adverse effects that the monthly special provisions had on sheepherders when it ruled in 1996 in *Zapata v. Western Range Association* that sheepherder wages should be adjusted for inflation using the Consumer Price Index.¹¹⁹

In conclusion, special legal exemptions are present beyond just the FLSA legislation. Administrative procedures and exemptions granted to sheepherders and ranchers dramatically lower wages for farmworkers employed in these fields. Ranchers

¹¹⁴ *United Farm Workers v. Solis* 697 F. Supp 2d 5, 9-10 (D.D.C. 2010).

¹¹⁵ Proposed Rule. “Temporary Agricultural Employment of H-2A Foreign Workers in the Herding or Production of Livestock on the Open Range in the United States.”

¹¹⁶ “Agricultural Online Wage Library.” United State Department of Labor: Employment and Training Administration. February 3, 2013. Accessed July 22, 2015.
<http://www.foreignlaborcert.doleta.gov/reader.cfm>.

¹¹⁷ *Mendoza et al. V. Perez* 754 F.3d 1002 (D.D.C. 2014).

¹¹⁸ Proposed Rule. “Temporary Agricultural Employment of H-2A Foreign Workers in the Herding or Production of Livestock on the Open Range in the United States.”

¹¹⁹ *Ibid*.

and shearers could earn as much as \$1,000 less a year than the median farmworker income. DOL is currently in the process of reviewing these exemptions to determine if these practices do in fact result in negative effects for farmworkers. As of 2016, both California and Oregon have determined that these exemptions do in fact substantially reduce farmworker wages.

Chapter 5: Demographic Factors Affecting Farmworker Wages

CITIZENSHIP

Historical Perspective

Citizenship has affected farmworkers' wages for decades. In Texas, following the shift from the ranching to agribusiness economy in the 1880s, many growers from the North were convinced to settle in South Texas because growers believed they could pay immigrants less than they would pay workers born in the United States.¹²⁰ The Southwestern Land Company sold land to Northern and Midwestern migrants hoping to settle in South Texas. The founder of the company, John Shary, told potential buyers that "cheap, exploitable labor was one of the primary selling points for farmlands in South Texas."¹²¹ Northern and Midwestern growers' perception that Mexican-Americans were immigrants provided a justification to pay these workers lower wages. Growers believed that immigrants did not deserve higher wages nor did they actually need a higher wage. Mexican and Mexican-American poverty was acceptable to growers and even desirable because it forced them to work in the fields because they needed money.

However, Anglo workers did not like that growers hired Mexican and Mexican-American workers because Anglos believed that wages would be higher if these workers were not available for hire.¹²² Anglos blamed Mexicans and Mexican-Americans for driving down wages, and these sentiments created a wave of anti-immigrant politics at the turn of the century. In 1891 Congress began to try to curb the use of immigrant labor in the United States, partially because of the growing resentment amongst Anglo laborers.¹²³ These Anglo workers refused to work for "Mexican wages" because they were so low that they could not earn a decent living.¹²⁴ Most Mexican and Mexican-American workers

¹²⁰ Montejano, David. *Anglos and Mexican in the Making of Texas, 1836-1986*. Austin, TX: University of Texas Press 1987.

¹²¹ Weber, John. *From South Texas to the Nation*. 48.

¹²² Montejano, David. *Anglos and Mexican in the Making of Texas*.

¹²³ Ibid.

¹²⁴ Ibid.

earned \$1.00 at that time.¹²⁵ In 1891, Congress passed a law that would allow the Federal Government to deport immigrants who had become dependent on welfare.¹²⁶ In California the government took action sooner to address growing white workers' concerns about the use of Chinese labor for farmwork. In 1882, Congress passed the Chinese Exclusion Act, which barred the entry of all Chinese immigrants into the United States. Eventually Congress went on to pass the Immigration Act of 1924, which created the modern day border. This law created the border patrol, allocated funds for enforcement, and allowed for deportation of any immigrant that did not have a valid visa.¹²⁷ Congress passed these laws in order to curb the use of immigrant labor in part because there was concern for Anglo workers, but in part because there was growing anti-immigrant sentiment during the 1880s and 1890s. Today, U.S. Citizenship and Immigration Services (USCIS) acknowledges that at the turn of the century most immigration laws came from a growing concern in the federal government to protect workers (which at that time meant Anglo workers).¹²⁸

These immigration laws created the legal concept of an undocumented person, someone who had not entered the country through legal channels. These immigration laws threatened to stem the tide of immigrant workers from Mexico. Growers still wanted a large source of Mexican and Mexican-American laborers not only because they could pay these workers less but because Mexican and some Mexican-American workers were more likely to migrate for work. Agribusiness needed a large number of laborers for a short period of time because growers tried to rush the harvest in order to obtain peak market prices for their goods.¹²⁹ Therefore, growers constantly feared not having enough labor to be able to harvest their crop quickly. Growers only needed labor for short periods of time

¹²⁵ Weber, John. *From South Texas to the Nation*.

¹²⁶ Ngai, Mae. *Impossible Subjects: Illegal Aliens and the Making of Modern America*. Princeton, NJ: Princeton University Press, 2004

¹²⁷ Ibid.

¹²⁸ U.S. Citizenship and Immigration Services: History Office and Library, *Overview of INS History*. Washington DC: 2012.

¹²⁹ Montejano, David. *Anglos and Mexican in the Making of Texas*.

(2-6 weeks) in this new agribusiness model, which forced farmworkers to migrate from farm to farm to find work.¹³⁰ Immigrant workers and Mexican-Americans were more likely to migrate from job to job to find work because they had no other choice. Anglo workers were often able to find jobs in ship yards or own their farm, which did not require that they move. The economic and social isolation that resulted from constantly migrating to new farms ensured that workers could not organize for higher wages and could not access the education that would result in higher wages for Mexican and Mexican-Americans.¹³¹ In Texas, 4,057 workers organized only 6 strikes for higher wages from 1930 to 1939.¹³² Isolation made it difficult for workers to organize against growers, thereby ensuring that wages remained low.

Immigration or perceived immigration status not only provided the justification for low wages and also ensured workers' isolation, with the new immigration laws, border patrol now had the right to deport workers that did not have visas to work within the United States. While growers had power over workers prior to the threat of deportation, deportation gave growers even more authority over workers. At this point in history, growers' relationship to their farmworkers resembled a master slave relationship in the Deep South.¹³³ Kelly Lyttle Hernandez describes one grower in her book *Migra!* as "He was the master, the Mexican illegals were equivalent to the black slaves, and together they formed a household, a system of labor relations in a world of tightly bound intimacy and inequity."¹³⁴ Growers needed workers who lived in fear of punishment, but growers also lived in fear of not having the worker to harvest their crop, which led to grower outrage in the 1950s when President Eisenhower ordered the repatriation of undocumented Mexican laborers to Mexico in Operation Wetback. Border Patrol's new found vigor to deport thousands of undocumented farmworkers threatened growers' authority and cheap labor

¹³⁰ Ibid.

¹³¹ Ngai, Mae. *Impossible Subjects*.

¹³² Foley, Neil. *The White Scourge*.

¹³³ Ibid.

¹³⁴ Ibid, 160.

supply.¹³⁵ Moreover, the deportation of undocumented farmworkers threatened grower's authority and power over their workers.¹³⁶

Immigration or perceived immigration status played an important role in driving down wages for farmworkers. First, growers could justify paying workers lower wages simply because there was a deeply held belief that immigrants or Mexican-Americans deserved low wages and did not need higher wages. Second, the new agribusiness model ensured that workers would have to migrate from farm to farm for work, which resulted in the isolation of workers from each other and from the communities where they lived. This isolation drove down wages because they did not have the network or connection to organize and demand higher wages. Third, once Congress passed immigration laws, it created a fear of deportation amongst undocumented workers. This fear could be used by growers to ensure that workers accepted their poor working conditions. However, deportation all took away power from growers in certain instances because now the federal government had the authority to deport workers, and not just the growers. These moments that have shaped modern day immigration policy still play a role in driving down farmworker wages. Citizenship and immigration status have important effects today on farmworkers' income and wages.

A Case Study: Washington Berry Farm

The dynamics between growers and workers that existed many decades ago can be still seen today. In *Fresh Fruits Broken Bodies*, Seth Holmes describes that workers with citizenship are more likely to occupy higher positions on the farm. Figure 8 illustrates the various positions in which one could be employed on the farm. The farm executives, crop managers, and administrative assistants are all U.S. citizens.¹³⁷ The majority of supervisors (also known as crop managers) are U.S. born, but there are a few

¹³⁵ Hernández, Kelly Lyttle. *Migra!: A History of the U.S. Border Patrol*. Los Angeles, CA: University of California Press, 2010.

¹³⁶ Ibid.

¹³⁷ Holmes, Seth M. *Fresh Fruit, Broken Bodies*.

managers that are of Mexican descent.¹³⁸ The hourly workers are all Mexican immigrants, and drive tractors to the fields and to the packing house.¹³⁹ They work from 5AM until the evening, seven days a week.¹⁴⁰ The contract workers that harvest berries are predominately Mexican immigrants, but a few high school students from the area also work as contractors.¹⁴¹

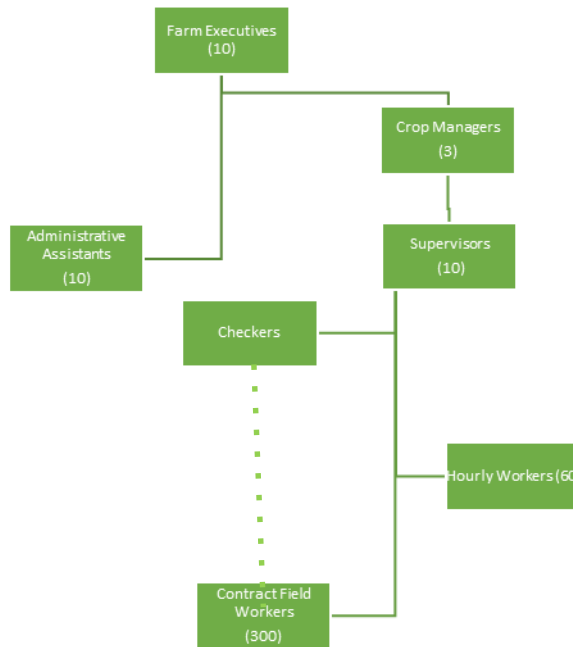


Figure 8: Farm Organizational Chart¹⁴²

The United States Department of Agriculture projected that roughly 98% of workers were undocumented in 2001. However, NAWS reports that 45.4% of workers are undocumented in 2012, as shown in Figure 9.¹⁴³ Citizens comprise 24% and Permanent

¹³⁸ Ibid.

¹³⁹ Ibid.

¹⁴⁰ Ibid.

¹⁴¹ Ibid.

¹⁴² Ibid.

¹⁴³ Employment and Training Administration, National Agricultural Workers Survey.

Residents comprise 23.9% of the total farmworker population.¹⁴⁴ The percent of farmworkers that are contracted under the H-2A program (guest worker program) is unknown because NAWS does not survey these workers.¹⁴⁵

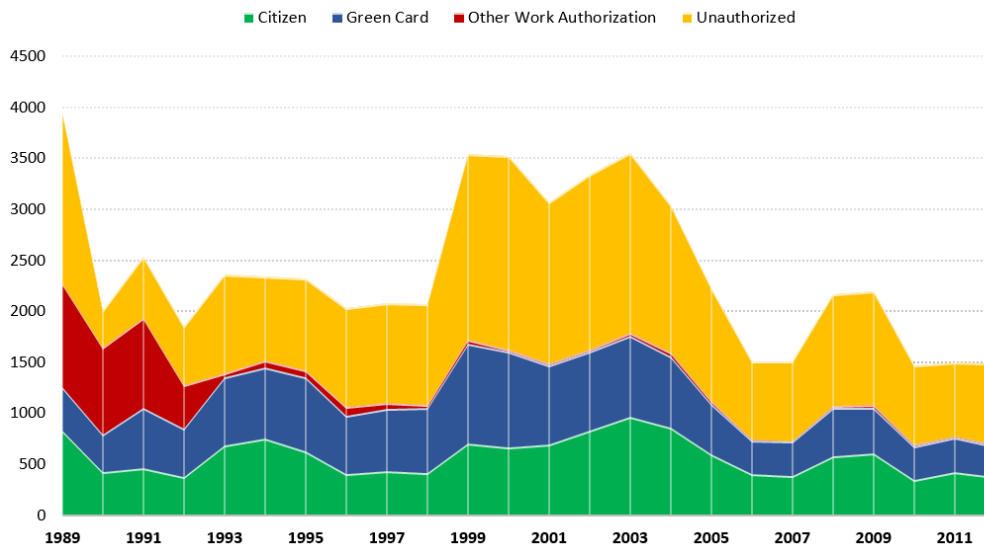


Figure 9: Farmworkers' Status Over Time¹⁴⁶

While most of the administrative assistants are U.S. born, some had done field work prior to obtaining their position as an assistant.¹⁴⁷ These workers moved out of piece rate work into hourly minimum wage work.¹⁴⁸ As previously discussed, while a piece rate worker theoretically could earn more than minimum wage, it comes at a high physical and mental cost. By moving into an assistant position, these workers gain other employment benefits like bathrooms and lunch breaks, stability in their wage rate, and work that is not physically exhausting. These assistants highlight an important advantage that many workers with citizenship have that many undocumented workers do not, the ability to move

¹⁴⁴ Ibid.

¹⁴⁵ Employment and Training Administration, Sampling Universe, <https://www.doleta.gov/agworker/naws.cfm>.

¹⁴⁶ Employment and Training Administration, National Agricultural Workers Survey.

¹⁴⁷ Holmes, Seth M. *Fresh Fruit, Broken Bodies*.

¹⁴⁸ Ibid.

out of the fields into other positions. Moreover, citizenship often comes with a greater opportunity to move into supervisory roles or more stable jobs. This ability to move up the farm hierarchy contributes to wage discrepancies amongst farmworkers, as well as intangible benefits like less physically taxing work and social standing from a management position.

Citizenship provides certain workers with better opportunities, but crop managers on this farm admitted that if all workers had access to these opportunities than farming would not be economically viable. One crop manager told Holmes that “U.S. farming would be impossible without undocumented Latin American migrant workers.”¹⁴⁹ This crop manager worried so much about the deportation of these undocumented workers that he told the researcher to not inform him where the workers had crossed the border.¹⁵⁰ The manager worried that if he actually knew the place where the workers crossed the border, he might have to tell the federal government, which would shut down that entry point, threatening the farm’s supply of contracted labor.¹⁵¹ This fear that the manager expressed is not a new phenomenon but one that growers have had for decades, as the previous section discussed. Many growers have resorted to filing paperwork with the federal government to contract workers from foreign countries through the H-2A program to mitigate the fear of an unstable workforce.

H-2A Workers and the Adverse Effected Wage Rate

A grower submits a work order to hire foreign workers when they cannot find a sufficient number of local workers.¹⁵² The Immigration and Nationality Act of 1965 requires that any foreign worker hired under the H-2A program cannot adversely affect

¹⁴⁹ Ibid, 65.

¹⁵⁰ Ibid.

¹⁵¹ Ibid.

¹⁵² Department of Labor, *Small Business Guide to the H-2A Visa Program: Herding or Production of Livestock on the Range*, https://www.foreignlaborcert.doleta.gov/pdf/H-2A_Small-Business-Compliance-Guide_Herder_Final_Rule.pdf.

wages and or employment of citizens.¹⁵³ Therefore, growers must advertise the positions to citizens prior to submitting a work order request to DOL at the higher of the following wage rates: Adverse Effect Wage Rate (AEWR), state minimum wage, federal minimum wage, or the prevailing wage rate in the region.¹⁵⁴

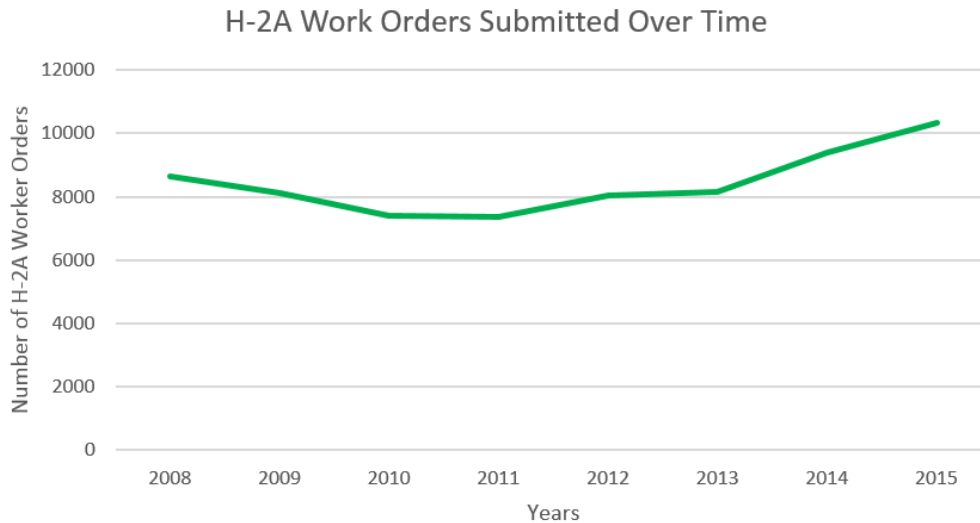


Figure 10: Worker Orders Submitted Over Time¹⁵⁵

Growers have increasingly submitted more requests for foreign workers through the H-2A program (See Appendix E for Work Order Application & Appendix F for an Application Process Flow Chart). It is unclear why there is an increase in work orders, but it is clear that the number of requests has increased. The Department of Labor (DOL) has published data on H-2A work orders starting in 2008. Growers have submitted 67,428

¹⁵³ Employment & Training Administration. Prevailing Wages (PERM, H-2B, H-1B, H1B1 & E-3), <https://www.foreignlaborcert.doleta.gov/pwscreens.cfm>.

¹⁵⁴ Temporary Employment of Foreign Workers in the United States as of March 24, 2016, Offered Wage Rate, *Code of Federal Regulations*, title 20 (2016): http://www.ecfr.gov/cgi-bin/retrieveECFR?gp=&SID=194876a5ab8d45dc6dee0f35da908617&mc=true&n=pt20.3.655&r=PART&ty=HTML#se20.3.655_1120.

¹⁵⁵ Employment and Training Administration, National Agricultural Workers Survey.

worker orders, having requested 902,281 workers total since 2008.¹⁵⁶ Figure 10 shows the number of work orders submitted over time. Since 2008, the aggregate number of work orders requested has increased. In fact, since 2014, the number of work orders submitted has increased to the highest number of requests since DOL has collected data on H-2A workers. Growers submitted 9,402 work orders in 2014 and 10,338 work orders in 2015, as compared to 2008 when growers submitted 8,630 work orders.¹⁵⁷ The percentage of work orders submitted since 2008 has increased by 19.7%.¹⁵⁸

Growers in North Carolina have submitted the largest number of work orders. North Carolina growers submitted 1,666 work orders in 2015 and have submitted 10,603 work orders since 2008.¹⁵⁹ Figure 11 shows the states that have submitted the most work orders, with darker blue states having submitted a higher number work orders. North Carolina, Kentucky and Louisiana have consistently submitted the largest number of work orders over time. Figure 12 maps every work order that growers submitted in 2015. Congress has not placed a cap on the number of visas that DOL can issue, unlike H-2B visas which are limited to 66,000 per year.¹⁶⁰

¹⁵⁶ Office of Foreign Labor Certification, Disclosure Data, 2008-2015, Department of Labor, <https://www.foreignlaborcert.doleta.gov/performance/data.cfm>.

¹⁵⁷ Office of Foreign Labor Certification, Disclosure Data.

¹⁵⁸ Ibid.

¹⁵⁹ Ibid.

¹⁶⁰ U.S. General Accounting Office. *H-2A and H-2B Visa Programs: Increased Protections Needed for Foreign Workers*, GAO-15-154. (Washington DC: General Accounting Office, March 2015), <http://www.gao.gov/assets/670/668875.pdf>.

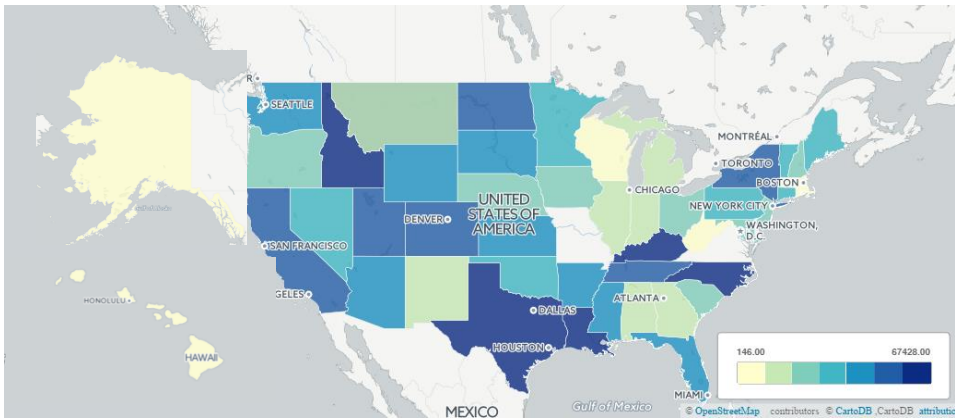


Figure 11: H-2A Work Order Submission Density Map¹⁶¹

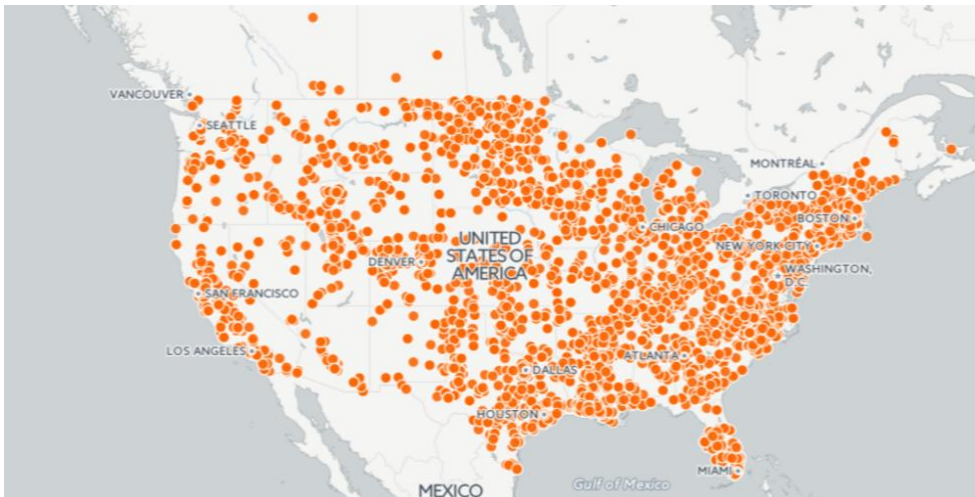


Figure 12: Map of all H-2A Work Orders in 2015¹⁶²

H-2A workers typically earn more than other workers that have not been contracted through DOL. For example, the federal minimum wage is \$7.25/hr. and in Georgia the state minimum wage is \$5.15/hr. and the AEWR in Georgia is 10.00/hr., Title 20 requires that a grower pay the highest of the three wages.¹⁶³ Therefore, in Georgia, if a grower

¹⁶¹ Employment and Training Administration, National Agricultural Workers Survey.

¹⁶² Employment and Training Administration, National Agricultural Workers Survey.

¹⁶³ Wage and Hour Division, Minimum Wage Laws in the States- January 1, 2016, <http://www.dol.gov/whd/minwage/america.htm>.

were to request H-2A workers, they would be required to pay them the AEWR because it is higher than the federal and state minimum wage.

Farmworkers' advocates oppose the AEWR for three primary reasons. First, advocates contend that if growers cannot find workers then, growers should raise wages in order to attract workers to the position.¹⁶⁴ Second, advocates contend that the wage is too low because the AEWR is calculated using the previous year's wages; therefore, inflation is not taken into account.¹⁶⁵ Third, the Department of Agriculture interviews undocumented workers during their surveying, which could suppress the AEWR because undocumented workers typically earn lower wages.¹⁶⁶

In addition to suppressed wages, H-2A workers are susceptible to abuse because they can only work for the employer who has contracted them for work. The Southern Poverty Law Center (SPLC) wrote that "The most fundamental problem with guest worker programs... is that the employer - not the worker- decides whether a worker can come to the United States".¹⁶⁷ While undocumented workers are more susceptible and vulnerable to abuse, at least they can choose to leave a farm if the employer is abusive. H-2A workers do not have this choice. SPLC stated that the most common complaint lodged by H-2A workers is that growers withhold their identity cards and documents.¹⁶⁸ This forces the worker to decide whether to remain on the farm or leave without evidence that they entered the country with a visa and forgo their expected wages. SPLC represented several H-2A tomato workers against Candy Brand LLC in Arkansas for stealing \$1.5 million in wages

¹⁶⁴ Southern Poverty Law Center, *Close to Slavery*, <https://www.splcenter.org/20130218/close-slavery-guestworker-programs-united-states#abuses>.

¹⁶⁵ Ibid.

¹⁶⁶ Ibid.

¹⁶⁷ Ibid.

¹⁶⁸ Ibid.

between 2003 to 2007.¹⁶⁹ Another H-2A case brought against an employer resulted in \$11 million in back wages and damages owed to workers.

Historically, growers used lack of citizenship as a justification to pay lower wages; however, today foreign workers can earn higher wages through the H-2A program. Yet, working as a guest worker means entering into a position where the employer has more control than he/she would otherwise have. This control, like in the past, can result in an abusive situation for the worker. Therefore, while those who are not citizens can earn equivalent or higher wages than workers that are citizens, citizenship can provide intangible benefits like choosing to leave your job. Furthermore, citizenship can help a worker move into less physically taxing jobs or supervisory positions, which have economic and non-economic benefits for the worker. Perhaps most importantly, citizenship provides a worker with security because they do not constantly fear deportation in the way that workers without citizenship do. The H-2A program demonstrates that entering the country with a visa, does not guard against the workers' ever present fear of deportation.

GENDER

Aside from citizenship, gender can affect farmworker wages as well. NAWS reports that 22% of the farmworker population is female. According to NAWS, women's real, median wage for hourly workers is \$4.44/hr., compared to men who earn \$4.54/hr. Men are earning \$0.10 more per hour on average. If a male and female farmworker both worked 43 hours a week (median hours worked by farmworkers according to NAWS) for 36 weeks (median weeks worked by farmworkers according to NAWS), the man would earn \$154.80 more a year than the woman. This amount may seem like a marginal increase in annual income, but given that the median income for a worker falls between \$10,000

¹⁶⁹ Southern Poverty Law Center, *Close to Slavery*, <https://www.splcenter.org/20130218/close-slavery-guestworker-programs-united-states#abuses>.

and \$12,499, this \$0.10 difference in hourly wage would mean that men earns 1.2% to 1.5% more per year than women.

Piece rate workers that are women earn a median, real wage of \$4.72/hr., compared to men who earn \$5.39/hr. Men typically earn \$0.67 more per hour when paid by the piece than women do. If a man and women both worked 43 hours a week (median hours worked by farmworkers according to NAWs) for 36 weeks (median weeks worked by farmworkers according to NAWs), the man would earn \$1,037.16 more a year than the woman. Piece rate workers earn even less than hourly workers in terms of annual income, typically earning a median, income of \$7,500 - \$9,999 per year. That would mean a man paid by the piece would earn 10.4% to 13.8% more a year than a woman paid by the piece.

It is concerning that farmworker women would earn less as piece rate workers because piece rate jobs are one of the few ways to earn above the minimum wage. Piece rate jobs are based on your ability to pick as quickly as possible. The faster a worker picks the crop the more they earn. Piece rate work has been and still is dominated by farmworker men. Only 16.3% of piece rate workers are women, according to NAWs. Some have argued, like Neuburger, that this divide exists due to the physical demands of piece rate work. This argument is based on outdated, sexist understandings of the physical dominance of men. Women face other hurdles in that field that men do not, which could result in those women picking fewer buckets per hour than men. For example, many women have to bring their children to the fields because they cannot afford child care. Other women experience persistent sexual harassment or violence in the fields, which could contribute to fewer buckets picked per hour and not in fact be due to the physical capabilities of men versus women.

SPLC interviewed Maria, a woman from Guatemala with four children, who picks tomatoes in Immokalee, Florida and is paid by the piece. Maria was faced with the decision to work hourly and earn \$5.75 an hour or pick tomatoes by the piece at \$0.45 per

32-pound bucket.¹⁷⁰ She told SPLC that ““You have to run to do 150 [buckets] to make you money for the day””.¹⁷¹ These choices and physical challenges are experienced by both men and women. However, women often have to take on extra expenses that some men may not. For example, Edilia, another woman interviewed by SPLC, earned \$30 a day but had to pay \$10 a day for a babysitter.¹⁷² Edilia lost 33% of her daily income on childcare costs. According to NAWs 57.2% of men are unaccompanied as opposed to 23.8% of women. Furthermore, 68.8% of men interviewed by NAWs did not have children living in their household at the time they were working. Only 41.6% of women did not have children in their household when working in the fields, a 27.2% difference. These discrepancies suggest that women are more likely than men to have to take childcare costs into consideration. Therefore, not only are women likely to earn 12.4% less than men per hour if they are paid by the piece, but women may also have to take additional costs into consideration that some men do not. Childcare is not the only factor that disproportionately affects farmworker women.

Sexual assault happens almost exclusively to farmworkers that are women. Ninety percent of farmworker women reported that workplace sexual violence was a problem in the United States.¹⁷³ SPLC reported that “the San Francisco District Office of the U.S. Equal Employment Opportunity Commission found that ‘hundreds, if not thousands, of [farmworker] women had to have sex with supervisors to get or keep jobs and/or put up with a constant barrage of grabbing and touching and propositions for sex by supervisors.’”¹⁷⁴ Sexual violence not only affects a woman’s mental health and physical safety, it can also affect a woman’s wage and income. Olivia Tamayo sued her

¹⁷⁰ Ibid.

¹⁷¹ Ibid, 21.

¹⁷² Ibid.

¹⁷³ Southern Poverty Law Center, *Sexual Violence Against Farmworkers: A Guidebook for Legal Providers* (Montgomery, AL: 2010). <https://www.splccenter.org/20100426/sexual-violence-against-farmworkers-guidebook-legal-providers>.

¹⁷⁴ Ibid.

employer, Harris Farms, because her supervisor had raped her multiple times on the job.¹⁷⁵ The U.S. District Court for the Eastern District of California in Fresno awarded Olivia \$53,000 in back pay and \$91,000 in pay that she would have received had she continued to work at her job.¹⁷⁶ Olivia also won an additional \$800,000 for punitive damages and the emotional damages caused by the assaults.

Olivia's case demonstrates the additional hurdles farmworker women face in the fields. Not only are women paid less than men, they also have to face additional hurdles as a result of their gender. These additional hurdles have significant effects on their wages and incomes. Therefore, gender must be taken into consideration when trying to understand farmworker wage rates.

RACE & ETHNICITY

A Case Study: Washington Berry Farm

As shown in the previous section, Figure 13 is an organizational chart that demonstrates the various levels of employment on the farm. The farm executives are third generation Japanese-Americans.¹⁷⁷ The administrative assistants are predominately white, but there are a few who are Latinx (see footnote).¹⁷⁸ Crop managers oversee all farming activities (planting, ploughing, etc.).¹⁷⁹ All of the crop managers on this farm are Anglo.¹⁸⁰ Supervisors, also known as crew bosses, are predominantly U.S. born Latinx, but a few

¹⁷⁵ U.S. Equal Employment Opportunity Commission, Jury Orders Harris Farms to Pay \$994,000 in Sexual Harassment Suit by EEOC, <http://www.eeoc.gov/eeoc/newsroom/release/1-21-05.cfm>.

¹⁷⁶ Ibid.

¹⁷⁷ Ibid.

¹⁷⁸ Latinx is a term used to refer to individuals from Mexico, Central America and Latin America. This term is used as opposed to Latino in order to remove the gender implications in Latino/Latina.

¹⁷⁹ Ibid.

¹⁸⁰ Ibid.

were Anglo and mestizo Mexican¹⁸¹. One supervisor was an indigenous Oaxacan (Oaxaca is a state in Mexico).¹⁸²

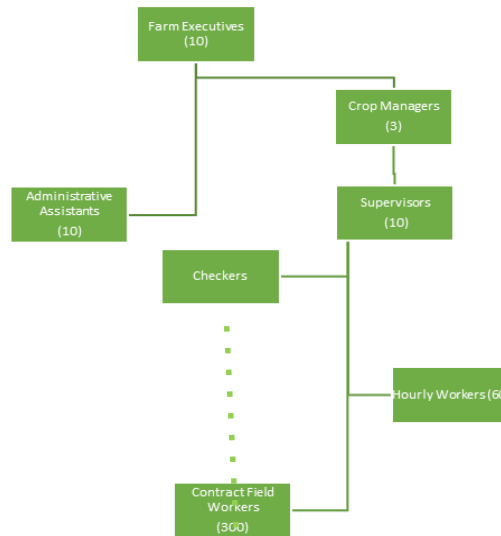


Figure 13: Washington Farm Organizational Chart¹⁸³

Checkers note the start and end times for each worker and weigh the buckets of picked crop.¹⁸⁴ Checkers on this farm were Anglo teenagers. Hourly workers typically ran farm equipment and perform other miscellaneous jobs. Most hourly workers were mestizo Mexican, and some were indigenous Mixtec.¹⁸⁵ Contract field workers were pickers, and they varied in racial identity.¹⁸⁶ There was a crew of Anglo teenagers that did not have to meet a minimum weight because they were under 16 and therefore were not mandated to meet federal minimum wage laws.¹⁸⁷ There was also a “Mexican crew” (the name that supervisors use to differentiate the two crews) which was divided into two parts. Supervisors assigned the mestizo Mexicans, along with a few Mixtec and Triqui

¹⁸¹ Mestizo Mexican is an individual who has both indigenous and Spanish heritage.

¹⁸² Ibid.

¹⁸³ Holmes, Seth M. *Fresh Fruit, Broken Bodies*.

¹⁸⁴ Ibid.

¹⁸⁵ Mixtec is an indigenous group of people from the state of Oaxaca, Mexico.

¹⁸⁶ Ibid.

¹⁸⁷ Ibid.

members¹⁸⁸, to pick apples (which had a better piece rate).¹⁸⁹ The rest of contract field workers labored in the strawberry fields. This group was predominantly Triqui with a few Mixtec individuals as well.¹⁹⁰

These ethnic divisions on the farm have implications for workers' wages. Supervisors assigned the mestizo Mexican crew apple picking jobs with the higher piece rate, and the Mixtec and Triqui workers were assigned almost exclusively to pick strawberries (the lower paying of the two harvesting jobs). One white teenage checker, told Holmes that management intentionally separated workers based on ethnicity.¹⁹¹ Supervisors felt justified in assigning Mixtec and Triqui workers to these lower paying jobs because there was a belief amongst upper level management as well as checkers that indigenous workers were not as hard working.¹⁹² One supervisor described the workers as, "'more dirty,' 'less respectful,' less work-, family- and community-oriented."¹⁹³ Another supervisor referred to workers as dogs, donkeys, and Oaxacos (a derogatory term for people from the state of Oaxaca).¹⁹⁴

This attitude transferred to the teenage checkers who felt they could act disrespectful to the contract workers.¹⁹⁵ Holmes described an instance in his observational research where he witnessed the checkers' disrespectful attitude towards workers: "They were throwing berries out, looking at people and telling them 'No!' without speaking Spanish enough to explain... and just refusing to weigh the bucket."¹⁹⁶ This type of

¹⁸⁸ Triqui is an indigenous group of people from the state of Oaxaca, Mexico.

¹⁸⁹ Ibid.

¹⁹⁰ Ibid.

¹⁹¹ Ibid.

¹⁹² Holmes, Seth M. *Fresh Fruit, Broken Bodies: Migrant Farmworkers in the United States*
* *Journeys: Stories from Van Buren*. Directed by Maureen Anway.

**Not same farm as one referenced in Holmes book *Fresh Fruit, Broken Bodies*.

¹⁹³ Holmes, Seth M. *Fresh Fruit, Broken Bodies*. 67.

¹⁹⁴ Ibid.

¹⁹⁵ Ibid.

¹⁹⁶ Ibid, 69.

interaction has direct implications for piece rate workers' wages. Workers pick quickly in order to fill the bucket as fast as they can. The faster they pick the more they earn. When checkers make negative assumptions about workers', it creates a justification for their behavior. In other words, these attitudes make checkers feel justified in refusing to weigh workers' buckets, throwing out picked crops, or incorrectly recording the amount harvested. Furthermore, the checkers' behavior results in workers earning lower wages.



Image 1: Managers at a Check Station¹⁹⁷

Moreover, once checkers allow a bucket to be weighed, often times they mark the buckets weight lower than it actual weight. Skimming off a few pounds, results in loss of wages to the worker. Holmes describes this occurring to him when he worked the fields. The checker at this farm wrote down that he had picked 26 pounds when he had in fact picked 28 pounds.¹⁹⁸ One Triqui worker told Holmes that he had picked 34 pounds but the checker only marked that he had picked 30.¹⁹⁹ He later said to Holmes in an interview that

¹⁹⁷ *Journeys: Stories from Van Buren*. Directed by Maureen Anway. (Not same farm as one referenced in Holmes book *Fresh Fruit, Broken Bodies*)

¹⁹⁸ Holmes, Seth M. *Fresh Fruit, Broken Bodies*.

¹⁹⁹ *Ibid*.

“In the blueberries, they steal an ounce from the little boxes and that is why the people can’t move ahead.”²⁰⁰



Image 2: Typical Berry Cartons Used on Farms²⁰¹

The intentional separation of jobs by ethnicity reinforces preexisting perceptions of indigenous workers. These perceptions justify the use of derogatory language and skimming pounds from workers, reinforcing the ethnic hierarchy on the farm, creating real wage differences for indigenous workers.

A Historical Phenomenon

Racial and ethnic separations are a long-standing phenomenon in agriculture. The Deep South used slaves until the mid-19th century; but even in states where slavery did not exist, growers used racial and ethnic social orders to exploit farmworkers for profit. In Texas during the founding of the Republic of Texas, many Mexicans had to “[insist] on their Spanish blood and the absence of any African blood” to purchase or maintain a claim

²⁰⁰ Ibid, 76.

* *Journeys: Stories from Van Buren*. Directed by Maureen Anway.

**Not same farm as one referenced in Holmes book *Fresh Fruit, Broken Bodies*.

²⁰¹ *Journeys: Stories from Van Buren*. Directed by Maureen Anway. (Not same farm as one referenced in Holmes book *Fresh Fruit, Broken Bodies*)

to their land.²⁰² The inability to purchase land left many Mexicans and Mexican-Americans in Texas without property. However, many Texans forced aristocratic Mexican-American families off their land during the founding of the Republic of Texas and during the shift from a ranching economy to an agribusiness economy, leaving even the landed class vulnerable to losing their property.²⁰³ A newspaper in Laredo wrote in 1910 that “The Mexicans have sold the great share of their landholdings and some work as day laborers on what once belonged to them.”²⁰⁴

Mexican-American landholders were vulnerable to losing their property because newly arriving migrants from the North did not differentiate between Mexican-Americans that owned landed and Mexican and Mexican-Americans that worked in the fields.²⁰⁵ This lack of class distinction allowed companies like The Southwestern Land Company to sell land that had been purchased (at times by force) to migrants from the North and Midwest who hoped to find farming success in South Texas.²⁰⁶ These companies enticed migrants from the North to purchase land in South Texas by claiming in their sales pitch that “The entire family works and are very handy... especially in picking cotton and corn, transplanting vegetables in harvesting and packing time”.²⁰⁷ This long standing racialized history of farms indicates that the ethnic or racial hierarchies on farms today are not a new phenomenon, but rather, simply a new iteration of a long standing agricultural practice. Moreover, these attitudes towards Mexican-American and Mexican farmworkers in states like California and Texas provided the justification for their mistreatment in the fields.

²⁰² Foley, Neil. *The White Scourge: Mexicans, Blacks and Poor Whites in Texas Cotton Culture*. Los Angeles, CA: University of California Press, 1997.

²⁰³ Montejano, David. *Anglos and Mexican in the Making of Texas, 1836-1986*. Austin, TX: University of Texas Press 1987.

²⁰⁴ Ibid, 113.

²⁰⁵ Ibid.

²⁰⁶ Ibid.

²⁰⁷ Weber, John. *From South Texas to the Nation: The Exploitation of Mexican Labor in the Twentieth Century*. Chapel Hill, NC: The University of North Carolina Press, 2015.

Growers during the 1920s used this racialized rhetoric to justify the low wages paid to Mexican and Mexican-American farmworkers. One white farmer said of white farmworkers, that they “‘would come down from the north and set onions, but they can’t do it at Mexican prices “’²⁰⁸ In 1938, when President Roosevelt passed New Deal legislation, he intentionally excluded farmworkers based on race and the economic interests of wealthy growers like the ones discussed above.

The racial and ethnic hierarchies on farms are not a new phenomenon, but rather have deep roots in plantation and agribusiness economies that prioritized white ownership. Furthermore, growers used racism to justify the theft of land from Mexican and Mexican-Americans, and then used racism again to ensure their low social standing by paying low wages and creating isolating farm practices. While not quite as explicit as in the past, racial differences are used today to justify paying certain workers more than others. Furthermore, due to the long-standing historical practice of using race as a justification makes the modern use of race seem normal and as if it had always been as such. Therefore, it would seem that race can play a role in the determination of a workers’ wage.

²⁰⁸ Montejano, David. *Anglos and Mexican in the Making of Texas*. 183.

SECTION 3: ENSURING EQUITABLE WAGES THROUGH THE DEPARTMENT OF LABOR

Chapter 6: Department of Labor

Migrant wages are low due wage stagnation as well as inequitable employment practices and demographic factors. This chapter will assess whether the Department of Labor can help advance farmworkers' economic opportunities by preventing certain factors that lower farmworker wages.

THE MISSION OF THE DEPARTMENT OF LABOR

History of the Department of Labor

Originally the Department of Labor was housed in the Department of Commerce and Labor.²⁰⁹ Labor (defined as workers' and their advocates) had pushed for the creation of a department that would represent the interests of workers. In a report that documents the history of DOL written by the Bureau of Labor Statistics in 1922, the report noted that "Every department of the Federal Government is now and has been officered by professional men, business men, or manufacturers... There should be at Washington a department of labor to be officered by men who are of and with labor".²¹⁰ By 1913, Congress created DOL by enacting Public Law 426-62, more commonly known as the Organic Act.²¹¹ "The law stated that "The purpose of the Department of Labor shall be to foster, promote, and develop the welfare of the wage earners of the United

²⁰⁹ Department of Labor, *The Organic Act of the Department of Labor*, <http://www.dol.gov/oasam/programs/history/organact.htm>.

²¹⁰ Gustavus A. Weber, U.S. Bureau of Labor Statistics, *United States Department of Labor: Its history, activities, and organization*. Washington, DC: U.S. Bureau of Labor Statistics Bulletin No. 319, 1922. 1.

²¹¹ Department of Labor, *The Organic Act of the Department of Labor*, <http://www.dol.gov/oasam/programs/history/organact.htm>.

States, to improve their working conditions, and to advance their opportunities for profitable employment.”²¹²

Also of note, DOL housed the Commissioner General of Immigration and Naturalization at the time.²¹³ Figure 14 shows DOL’s original organizational structure. Housing both the Bureau of Immigration and Bureau of Naturalization indicates that even in 1913, the U.S. government saw immigration as a workforce problem. United States Citizenship and Immigration Services (USCIS) noted that Congress moved Immigration and Naturalization Services (INS) to DOL because “most immigration laws of the time sought to protect American workers and wages.”²¹⁴ This leads to an important question: does DOL advance economic opportunities for all workers in the United States? Or, is DOL concerned with advancing economic opportunities only for those that have authorization to work in the United States?

²¹² Ibid.

²¹³ Ibid.

²¹⁴ U.S. Citizenship and Immigration Services: History Office and Library, *Overview of INS History*. Washington DC: 2012. 4.

PERSONNEL OF THE BUREAU OF LABOR STATISTICS, SEPTEMBER 1, 1922, AND ANNUAL SALARY RATES.

Designation.	Number of employees.	Annual salary rate. ¹	Designation.	Number of employees.	Annual salary rate. ¹
<i>Office of the commissioner.</i>			<i>Statistical division—Con.</i>		
Commissioner.....	1	\$5,000	Special agent—statistical clerk...	2	\$1,000
Secretary to commissioner.....	1	1,600	Statistical clerk.....	6	1,400
	2		Do.....	10	1,200
<i>Office of the chief statistician.</i>			Do.....	4	1,000
Chief statistician.....	1	3,000	Clerk-draftsman.....	1	1,200
Assistant to chief statistician.....	1	1,600	Clerk-stenographer.....	1	1,400
Statistician.....	1	2,920	Do.....	1	1,200
Do.....	1	2,760	Stenographer.....	1	1,200
Correspondence clerk.....	1	1,600		77	
Financial clerk.....	1	2,280	<i>Editorial and research division.</i>		
Stenographer.....	1	1,400	Editor (chief of division).....	1	3,000
File clerk.....	1	1,400	Assistant chief of division.....	1	2,280
Member of General Supply Committee and department physician.....	1	2,000	Secretary to editor.....	1	1,600
Assistant stationery and property clerk.....	1	1,200	Editorial clerk.....	1	2,000
Investigator.....	1	2,280	Do.....	3	1,800
Clerk-stenographer.....	1	1,200	Do.....	2	1,600
Do.....	2	1,000	Editorial clerk and translator.....	1	1,800
Copyist and utility man.....	1	900	Manuscript editor.....	1	2,000
Messenger.....	1	840	Do.....	1	1,800
Assistant messengers.....	3	720	Do.....	1	1,400
Laborers.....	2	660	Indexer and research worker.....	1	1,800
	21		Proof reader and copy preparer.....	1	1,800
<i>Statistical division.</i>			Assistant proof reader and copy preparer.....	1	1,400
Chief of division.....	2	2,520	Translator.....	1	1,200
Do.....	1	2,280	Clerk-stenographer.....	1	1,400
Do.....	1	2,000		18	
Do.....	2	1,800	<i>Law division.</i>		
Assistant chief of division.....	1	2,000	Chief of division.....	1	2,760
Do.....	1	1,800	Assistant chief of division.....	1	1,200
Do.....	4	1,600	Stenographer.....	1	1,200
Chief of section.....	1	2,280		3	
Do.....	2	2,000	<i>Detailed to other offices of the department.</i>		
Do.....	1	1,600	Clerk.....	1	1,200
Do.....	1	1,400	Copyist.....	1	900
Special agent—statistical clerk.....	1	2,280		2	
Do.....	4	2,000			
Do.....	4	1,800			
Do.....	9	1,600			
Do.....	12	1,400			
Do.....	4	1,200	Grand total, bureau employees....	123	

Figure 14: DOL Organizational Structure (1922)²¹⁵

The Modern Department of Labor

In the modern labor department there are several departments that are responsible for various programs and missions within the DOL (See Figure 15). This report will review one department that is responsible for ensuring the welfare of and advancing economic opportunities of farmworkers. First, the Wage and Hour Division (WHD) is

²¹⁵ Gustavus A. Weber, U.S. Bureau of Labor Statistics, *United States Department of Labor*. 29.

the office that is tasked with the enforcement of the Fair Labor Standards Act (FLSA), Migrant and Seasonal Agricultural Workers Protection Act, and certain H-2A laws. Congress created WHD in 1938 as a part of FLSA legislation to enforce FLSA.²¹⁶ WHD will be assessed as a mechanism to advance the economic opportunities of workers because it is their stated purpose. Their mission statement says “The Wage and Hour mission is to promote and achieve compliance with labor standards to protect and enhance the welfare of the Nation’s workforce.”²¹⁷

The National Farmworkers Jobs Program (NFJP) housed in the ETA would also play a role in achieving this mission, however NFJP was not analyzed for this report because its purpose does not address improving conditions for workers in the fields. Its purpose was “to help farmworkers prepare for upgraded jobs and alternatives to farm work.”²¹⁸ In addition, this report will not review the Office of Foreign Labor Certification as a means to preemptively prevent worker abuse within the H-2A program due to the research and time constraints of this project. However, this process should be reviewed to determine if it is effective at preventing potential abuse of farmworkers.

²¹⁶ Wage and Hour Division, Wage and Hour Division History, <http://www.dol.gov/whd/about/history/whdhist.htm>.

²¹⁷ Wage and Hour Division, Mission Statement, <http://www.dol.gov/whd/about/mission/whdmiss.htm>.

²¹⁸ Clary, Elizabeth, Ladinsky, Jonathan, Hague Angus, Megan, and Millar, Alexandar. Evaluation of the national Farmworker Jobs Program. (Washington D.C.: Mathematica Policy research, March 7, 2013).

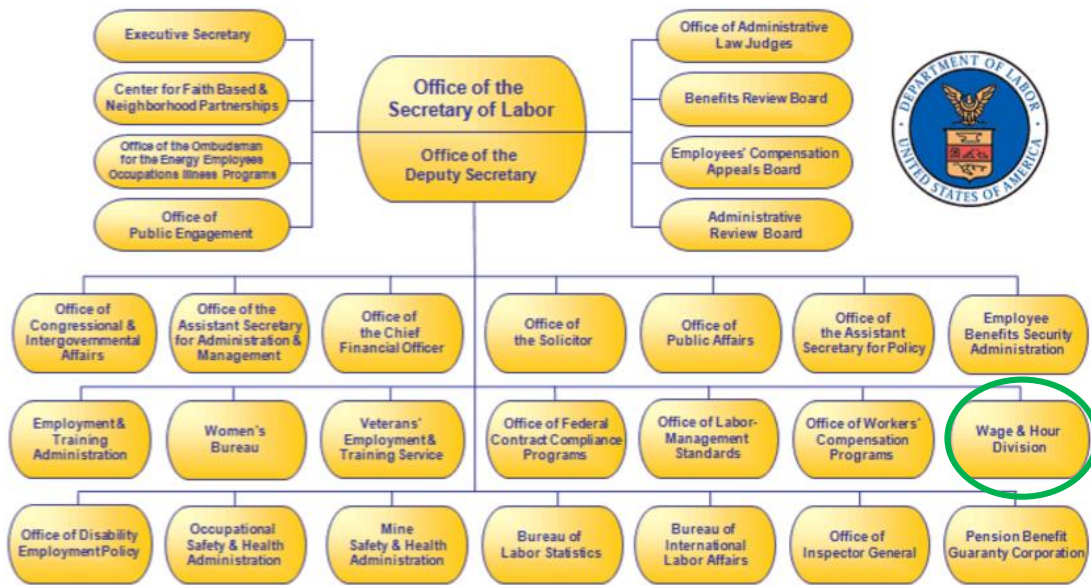


Figure 15: DOL Organizational Chart of the Department of Labor (2016)²¹⁹

WHD: CONTRIBUTION TO THE MISSION OF DOL

The following section will describe WHD's investigation process in order to advance the economic opportunities and welfare of workers. WHD investigates claims against employers that have resulted in the loss of wages to the worker. OFLC has an intake process that approves employers' requests for workers (See Appendix G for H-2A Certification Process Flow Chart).

WHD Intake and Investigation Process

A worker can file a complaint with DOL's Wage and Hour Division (WHD) if a worker believes that the employer fails to pay the minimum wage or the agreed upon wage, or if the worker believes the employer is treating them poorly. To file a complaint, the worker can call a WHD office or can file the complaint in person at the WHD office.²²⁰ All complaints are confidential. The name of the individual that filed the complaint's name

²¹⁹ Department of Labor, General, <https://www.dol.gov/general/aboutdol/orgchart#main-content>.

²²⁰ Department of Labor, *Frequently Asked Questions*, <http://www.dol.gov/wecanhelp/faq.htm>

should not be revealed at any point during the investigation.²²¹ Once WHD receives the call, they should record the facts of the alleged case in their database.²²² After the call is recorded the investigator could contact the employer in advance to determine if the employer failed to comply with a variety of employment laws under WHD's purview.²²³ However, the law does not require that the investigator contact the employer in advance of the investigation.²²⁴

The investigator typically initiates the investigation process by reviewing the complaint to determine if the employer is entitled to certain exemptions like the ones listed in the previous chapter.²²⁵ The investigator will then review employers' payroll and records containing the number of hours that employees worked.²²⁶ Next, the investigator interviews relevant employees to verify the employer's records and determine if other violations exist.²²⁷ Also, WHD conducts interviews to determine if certain legal exemptions apply to a particular worker.²²⁸ Investigators typically conduct interviews at the place of employment, but interviews involving former employees could be conducted at interviewee's home, by mail, or over the phone.²²⁹

Following the investigative process, the WHD investigator meets with the employer or their representative to discuss findings and corrections that need to be made to be in compliance.²³⁰ The investigator at this point will also inform the employer if back

²²¹ Department of Labor, *Prevailing Wage Resource Book 2010*. (Washington DC: 2010).

²²² U.S. General Accounting Office. *Wage and Hour Division's Complaint Intake and Investigative Processes Leave Low Wage Workers Vulnerable to Wage Theft*. GAO-09-458T. (Washington DC: General Accounting Office, March 25, 2009).

²²³ Department of Labor, *Prevailing Wage Resource Book 2010*.

²²⁴ Ibid.

²²⁵ Wage and Hour Division, *Fact Sheet #44: Visits to Employers*, <http://www.dol.gov/whd/regs/compliance/whdfs44.htm>.

²²⁶ Ibid.

²²⁷ Ibid.

²²⁸ Ibid.

²²⁹ Ibid.

²³⁰ Ibid.

wages or overtime wages are owed to employees.²³¹ DOL has administrative authority to oversee that back wages and overtime wages are in fact paid to employees. The investigator can also recommend litigation in a U.S. District Court, at which point DOL would file a lawsuit to obtain back wages and overtime pay, as well as liquidated damages.²³² The investigator may also recommend that DOL seek civil money penalties if the investigator determines that the employer knowingly and intentionally violated the law.²³³ Civil money penalties damages that the employer pays to the government.²³⁴ Finally, if the investigator renders it necessary, they can recommend that DOL initiate criminal proceedings, including criminal penalties or imprisonment, for employers that have knowingly and intentionally violated the law.²³⁵ Figure 16 depicts this investigation process in a process flow chart.

This report will focus on back wages as a metric for success rather than damages and civil money penalties in order to narrow the scope of the research. Civil money penalties, damages, and criminal proceedings all have possibly important effects on the likelihood that an employer would violate certain protections. However, given the research time frame and scope of the project, the report will focus on the most relevant metric for this report, back wages. Back wages have been identified as the most relevant metric because they provide the greatest insight into the amount in wages that workers have lost due to inequitable employer practices or discrimination based on demographic characteristics.

²³¹ Ibid.

²³² Ibid.

²³³ Ibid.

²³⁴ Ibid.

²³⁵ Ibid.

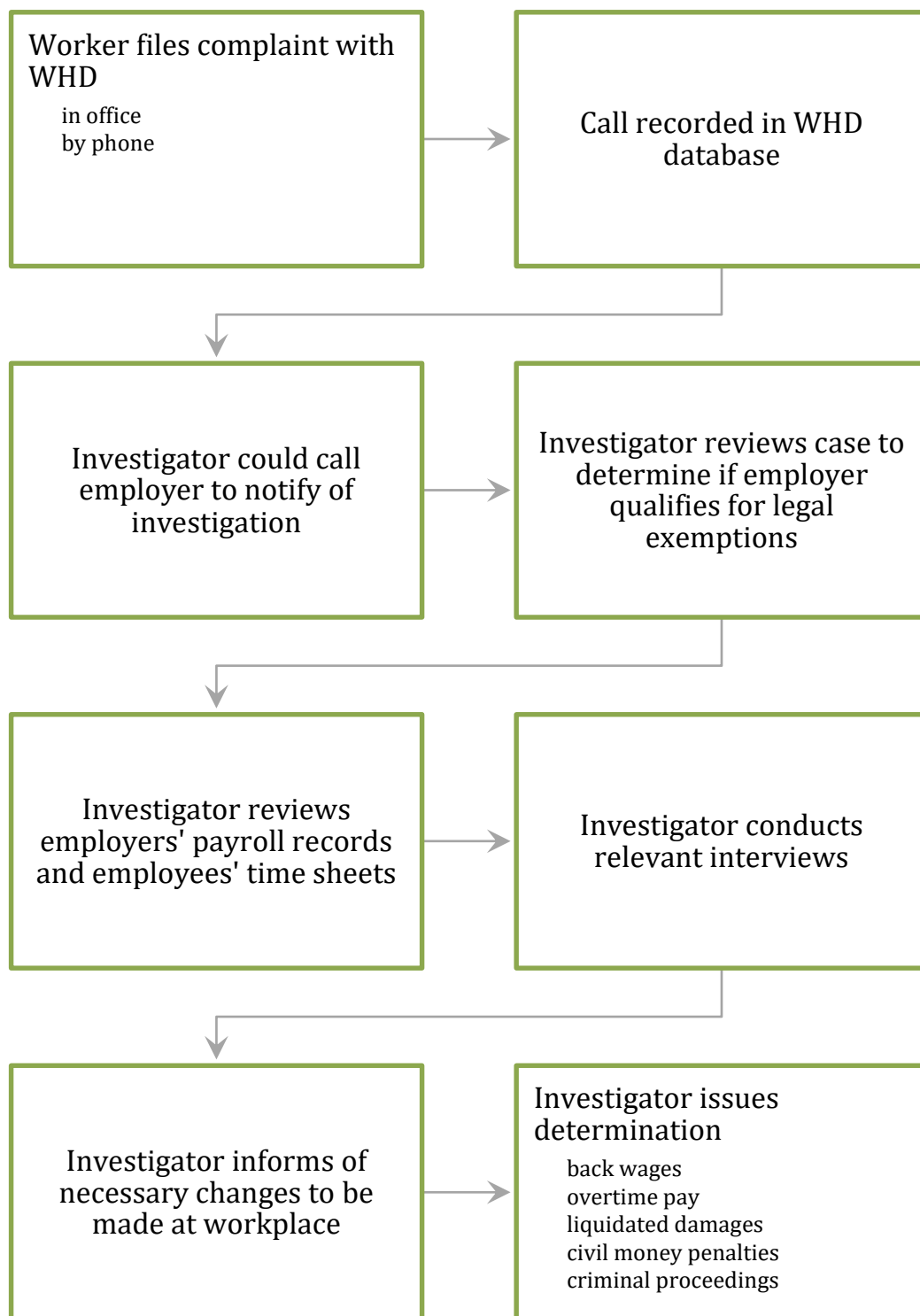


Figure 16: WHD Complaint Investigation Process

ASSESSMENT TOOLS

This report uses publicly available WHD Compliance Action Data to assess whether WHD meets its stated mission of promoting employer compliance of labor laws in order that workers can prosper. Furthermore, this data will be used to determine whether WHD contributes to DOL's overall mission of promoting the welfare of and economic opportunities for farmworkers. WHD Compliance Action Data records the following information:

- the number of cases (must be closed to be made available to the public)
- number of violations per case
- under which law the violations fell
- back wages assessed under the given law

WHD Compliance Action Data records violations under the following laws:

- Fair Labor Standards Act (FLSA)
- Migrant and Seasonal Agricultural Workers Protection Act (AWPA)
- Law relating to H-2A guest workers under Title 20

This publicly available data combines years as well as all professions. This report filtered the data so that only NAICS (North American Industry Classification System) codes relevant to farmworkers appeared within the data set. The following codes were used:

- 011: Cash Grains²³⁶
- 013: Field Crops (excluding cash grains)²³⁷
- 019: General²³⁸

All 01 codes are used for agricultural production. Codes 016 – 018 were included, but no cases existed within the data set. 014 and 015 are not listed under the Agricultural

²³⁶ OSHA, Major Group 01: Agricultural Production Crops,
https://www.osha.gov/pls/imis/sic_manual.display?id=1&tab=group.

²³⁷ Ibid.

²³⁸ Ibid.

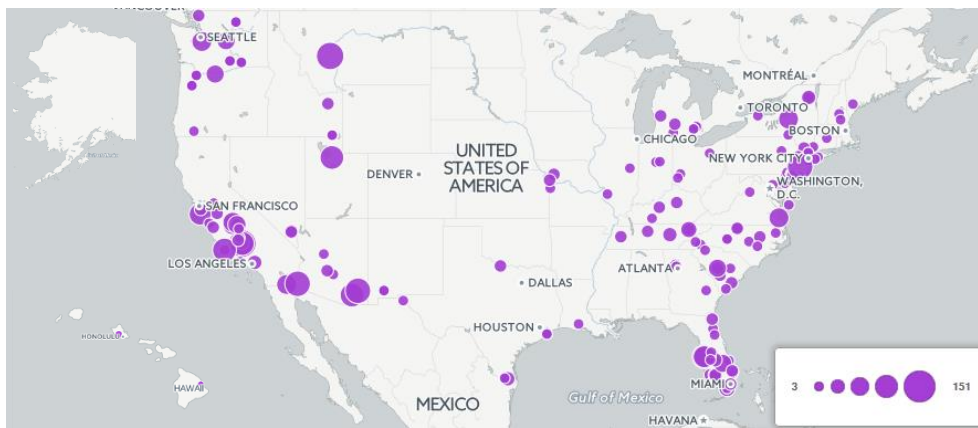
Productions Crops list.²³⁹ Work that falls within the 016 to 018 codes are as follows: vegetables and melons, fruits and tree nuts, and horticultural specialties.²⁴⁰

The following section will analyze WHD's efficacy in finding cases where abuse has existed and awarding back wages to workers. This section uses WHD Compliance Action Data and maps that data in order to visually represent WHD's enforcement of these laws.

ANALYSIS OF WHD ENFORCEMENT

AWPA Enforcement

Since 2007, DOL has identified 208 cases that have violated AWP labor laws (See Figure 17).²⁴¹ There has been 1,273 total AWP violations in those 208 cases.²⁴² Therefore, DOL found a median of two AWP violations per case.²⁴³ Most case violations can be found along the east or the west coast, with very few violations found in the states west of the Mississippi River and east of Arizona's eastern border.



²³⁹ Ibid.

²⁴⁰ Ibid.

²⁴¹ Wage and Hour Division, Wage and Hour Compliance Action Data, http://ogesdw.dol.gov/views/data_summary.php.

²⁴² Ibid.

²⁴³ Ibid.

Figure 17: Map of AWPAs Violations²⁴⁴

DOL determined that 19 out of 524 total cases merited the payment of back wages (See Figure 18).²⁴⁵ The median back wages received per case is \$1,218.²⁴⁶ Each dot represents an instance where WHD determined that back wages were owed to the worker. The larger the circle, the larger the amount of back wages owed. The largest circles are located in California, but there are significantly more cases where back wages were owed in the North East. Given that California has the largest amount of agricultural production in the country it is surprising that the largest number of violations are not located there. Furthermore, another large agricultural state, Texas, has zero cases where back wages were owed. This could indicate WHD enforcement is heavily dependent on the region and the regional offices enforcement strategy. In other words, the northeast simply may be more aggressive in their enforcement than the California or Texas offices. However, this could also indicate that there are fewer growers violating AWPAs within the state of California or Texas. The second seems less likely than the first possibility, but the data does not provide insight into which is the more accurate possibility.



²⁴⁴ Ibid.

²⁴⁵ Ibid.

²⁴⁶ Ibid.

Figure 18: Map of Back Wages under AWP²⁴⁷

FLSA Enforcement

In 7 years, DOL determined that of the 524 cases investigated, 112 cases had FLSA violations with a median of 1 FLSA violation per case (See Figure 18 for map of case violations).²⁴⁸



Figure 19: Map of Number of FLSA Violations by Case²⁴⁹

Of the 112 cases that had FLSA violations, investigators determined that only 44 cases had employers that owed back wages.²⁵⁰ Of all cases with FLSA violations, the median back wage owed was \$0. Of the 44 cases that owed back, the median back wage owed to employees was \$4,214.54 (See Figure 19 for map of back wages).²⁵¹ Similar to previous maps, the larger the circle the larger the number of violations or back wages owed. WHD determined that of the 524 cases only 35 cases warranted overtime back wages.²⁵² Figure 21 maps all overtime back wages owed to farmworkers in the last 7

²⁴⁷ Ibid.

²⁴⁸ Ibid.

²⁴⁹ Ibid.

²⁵⁰ Ibid.

²⁵¹ Ibid.

²⁵² Ibid.

years. The median overtime back wages owed was \$3,259.16.²⁵³



Figure 20: Map of FLSA Back Wages Owed by Case



Figure 21: Map of Overtime Back Wages Owed by Case²⁵⁴

H-2A Enforcement

WHD also enforces certain H-2A wage laws.²⁵⁵ In the last seven years there have been 52 cases with a total of 1,582 H-2A violations (See Figure 22 for Map of H-2A

²⁵³ Ibid.

²⁵⁴ Ibid.

²⁵⁵ Ibid.

violations).²⁵⁶ Violations are mostly clustered in the Northeast. This seems to indicate that there is more aggressive enforcement in the Northeast than in other parts of the country. It is also possible that there are more violators in the Northeast. However, given that the largest number of work orders comes from states in North Carolina, Kentucky, and Louisiana, one would imagine that if enforcement were equal across all states and the probability that a grower is equally likely to violate the law regardless of which state they are in, then there would be more violations in states with larger number of worker orders. In other words, one would imagine that there should be more violations in North Carolina, the highest contracting state, than in the Northeast where there are fewer growers contracting workers.



Figure 22: Map of H-2A Violations by Case

The median number of violations per the 52 cases was 7.5.²⁵⁷ Of the 52 cases that had H-2A violations, WHD determined that 32 cases warranted the employer pay back wages to employees (See Figure 23 for a Map of H-2A back wages).²⁵⁸ In those 32 cases, the median amount of back wages owed was \$1,570.58 per case.²⁵⁹ In seven years,

²⁵⁶ Wage and Hour Division, Wage and Hour Compliance Action Data, http://ogesdw.dol.gov/views/data_summary.php.

²⁵⁷ Ibid.

²⁵⁸ Ibid.

²⁵⁹ Ibid.

employers paid a total of \$427,262.87 in back wages.²⁶⁰ Back wages are also clustered in the Northeastern region, again indicating that there are factors that either encourage more active enforcement at a management level or that reporting is stronger in the Northeast than in other parts of the country.



Figure 23: Map of H-2A Back Wages by Case

CONCLUSIONS: EFFICACY OF DOL ENFORCEMENT

Only 9.1% of all AWPAs with violations and 39.3% of FLSA cases with violations received back wages and only 31.3% of cases with violations received back wages for overtime.²⁶¹ In 2009, GAO conducted a study that assessed DOL’s intake and investigation process. GAO found that that “WHD’s processes for handling investigations and other non-conciliations were frequently ineffective because of significant delays.”²⁶² GAO determined this by submitting 10 scenarios to WHD for investigation. For many of the cases WHD did not even respond, did not verify

²⁶⁰ Ibid.

²⁶¹ Ibid.

²⁶² U.S. Government Accountability Office. *Wage and Hour Division Needs Improved Investigative Processes and Ability to Suspend Statute of Limitations to Better Protect Workers Against Wage Theft*. GAO-09-629. (Washington D.C.: General Accounting Office, June, 2009). <http://www.gao.gov/assets/300/291496.pdf>

employers' story before closing the case, did not investigate repeat violator, and "dropped cases because the employer did not return telephone calls".²⁶³ Furthermore, five of the cases submitted by WHD were closed because investigators were unable to verify information provided by the employer.²⁶⁴ Most investigators relied on internet searches to verify employer information.²⁶⁵ Poor intake processes could indicate why there are fewer reported cases in certain regions. For example, Texas is one of the largest agricultural states in the United States and yet has very few AWPA and FLSA violations. This could indicate that growers in Texas are less likely to violate these laws, or it could indicate that there are problems with reporting violations in Texas.

The Government Accountability Office (GAO) also found in 2009 that "Once [H-2A workers] are in the country, workers may experience problems with or inadequate living conditions, as well as discrimination and threats"²⁶⁶ Publicly available WHD data corroborates this statement. In seven years, only 52 cases had H-2A violations. When those cases were investigated there were high numbers of violations. WHD determined that 61.6% of workers in these cases were awarded back wages. These percentages indicate and GAO concluded that there is a true need for more investigations of H-2A employers.²⁶⁷ GAO conducted its own investigation using WHD data that was not available to the public. Their research also indicated that only a small number of cases were investigated compared to the larger population.²⁶⁸ In 2009, only 0.2% of all H-2A cases were investigated.²⁶⁹ Five years later the number of investigations has increased but there was a marginal percentage rate increase. In 2013, only 0.3% of all H-2A

²⁶³ Ibid, 5.

²⁶⁴ Ibid.

²⁶⁵ Ibid.

²⁶⁶ U.S. Government Accountability Office. *H-2A and H-2B Visa Programs: Increased Protections Needed for Foreign Workers*. GAO-15-154. (Washington D.C.: General Accounting Office, March, 2015). <http://www.gao.gov/assets/670/668875.pdf>.

²⁶⁷ Ibid.

²⁶⁸ Ibid.

²⁶⁹ Ibid.

employers were investigated.²⁷⁰ However, the low rate of investigation is not due to the low rate of abuse within the H-2A program, GAO acknowledged that the high vulnerability H-2A workers face contributes to the higher number of violations.²⁷¹ In addition these numbers indicate that WHD has not historically been proactive in their regulation. It would seem that WHD relies almost entirely on workers filing complaints. It is probable that there are barriers to workers reporting these violations, which drives down the number of cases and number of violations. In other words, it would seem probable that there are in fact more instances of violation than this data suggests because there are low reporting rates.

²⁷⁰ Ibid.

²⁷¹ Ibid.

Chapter 7: Recommendations

Given the multitude of factors that are affecting farmworkers' wages, a variety of actions should be taken to increase farmworkers' standard of living. However, DOL is not equipped to address all of the factors lowering farmworker wages. For example, it seems that race and gender lower wages for certain workers, however, the Equal Employment Opportunity Commission and the Civil Rights Division of the Department of Justice may be better equipped to address these complaints than DOL. Given that many farmworker women lose out on wages to which they are entitled due to sexual harassment and sexual assault, more must be done to enforce safety for all in the fields. Research should be conducted on the prevalence of harassment and sexual assault in agriculture. Furthermore, research must be conducted on barriers to reporting, in order for women to access appropriate services to cope with the mental, physical and financial problems caused by harassment and assault. Many of the problems that stem from power-dynamics on the farm that are not something that DOL or private litigation will always be able to enforce. Collective action could possibly address some these issues within the field that are not as easy for government agencies to enforce. Furthermore, if lack of affordable childcare access is lowering women's wages, there is little DOL can do to address these concerns. Moreover, to end the use of child labor in agriculture would require legislative action from Congress. In addition, more research needs to be done to determine how to mitigate the negative effects on farmworker income that would result from ending the use of child labor in agriculture. If families could no longer depend on their children's wages, there could be deleterious effects for family incomes.

More importantly, ending certain legal exemptions would require legislative action, which would require Congressional action. DOL did recently review sheepherding and ranching exemptions which fall under administrative discretion and determined that they did have deleterious effects for farmworkers. By removing this exemption, these farmworkers are likely to see wage increases by 2020. However, FLSA exemptions would require Congressional action, and therefore there is little DOL could

do to immediately change this factor's effects. Furthermore, there is little that DOL can do to address inequities that exist due to citizenship. In order to address these inequities, there would have to be a much larger shift in all areas of government to not give privilege individuals with citizenship.

On the other hand, DOL could take the following actions to address wage theft and inequitable piece rates:

1. Reevaluate DOL recommendations for calculating piece rates.

Currently DOL recommends that growers take an average of the three rate setters in order to calculate the piece rate; however, with this methodology ensures that roughly 50% of all workers will struggle to meet the standard rate of harvesting. Therefore, DOL should review its rate setting methodology.

2. Reevaluate WHD methodology to investigate case violations.

In addition to using a reactive model of workers calling to report case violations, WHD should consider developing a course of action that would more proactively investigate employers for violations.

3. Reevaluate call intake procedures.

GAO determined that WHD did not properly record all reports of employer violations. WHD and DOL should consider reviewing how it records these violations in order to ensure that all reports are properly recorded and investigated.

4. WHD should prioritize farmwork cases given evidence of egregious violations historically.

While WHD will always be subject to politics, the agency should prioritize enforcing farmworker cases. Given that only 524 cases have been investigated in the last year indicates that little attention has been paid to this in particularly vulnerable community. WHD has substantial litigation and enforcement power. If the department decided to aggressively enforce farmworker abuse, then it is

possible that certain growers would not feel as if there are few consequences to abusing their workers.

The following recommendations relate to releasing information that would provide a deeper understand that workers face:

1. U.S. Department of Agriculture should make data on farm and crop production public available to the public.

USDA should make data on farm and crop production available at the individual farm level. A large barrier to understanding the full extent to which workers are exploited by their employers is that little is often know about their employers. There is no information on individual growers' economic prosperity or hardship. Questions about growers remain ambiguous. Therefore, more information is needed for researchers and advocates to better understand the nature of farmworker exploitation.

2. Advocates should begin to collect their own data within their own communities.

Given that DOL data is not intended for advocate's use, often time it does not gather information in a way to would be most useful for the workers themselves. Farmworkers and advocates should begin to build their own surveys and gather their own data in order to begin constructing data sets and research archives that are built for the workers.

APPENDICES

Appendix A: Sample Letter to Grower Requesting NAWS Participation



JBS International, Inc.
Aguirre Division
555 Airport Boulevard, Suite 400
Burlingame, CA 94010-2002
Main 650.373.4900
Fax 650.348.0260

To Whom It May Concern:

JBS International Inc.-Aguirre Division is conducting a national study of farm workers. The study's main objective is to identify trends in the make-up of the hired farm workforce. The information obtained helps agricultural employers and grower organizations stay informed about the characteristics of the hired farm workforce and helps public and private agencies better plan programs for farm workers.

JBS International Inc.-Aguirre Division is a private research firm that provides professional, technical, and management services for policy analysis and program evaluation to government agencies, education agencies, and the private sector. JBS International Inc.-Aguirre Division has no connection to any union organization.

Due to the study's design, it is possible that you have participated in the study in the past. Regardless of when, your participation is very much appreciated, as the study's success depends on your voluntary cooperation.

One of our representatives in your area may be contacting you soon to invite you to participate. If you receive this notice but are not contacted, it is because the interviews allocated for your county have been completed. The representative(s) in your area is (are):

(Name of Consultant)
(Name of Consultant)

Once again, your cooperation in this study would be greatly appreciated. If you have any questions, I, as well as Dr. Jorge Nakamoto, the Field and Training Director, would be happy to speak with you. We can be reached between 8:00 a.m. and 5:00 p.m. PST at the following toll-free number for the JBS International Inc.-Aguirre Division office in Burlingame, CA: (866) YES-NAWS or (866) 937-6297.

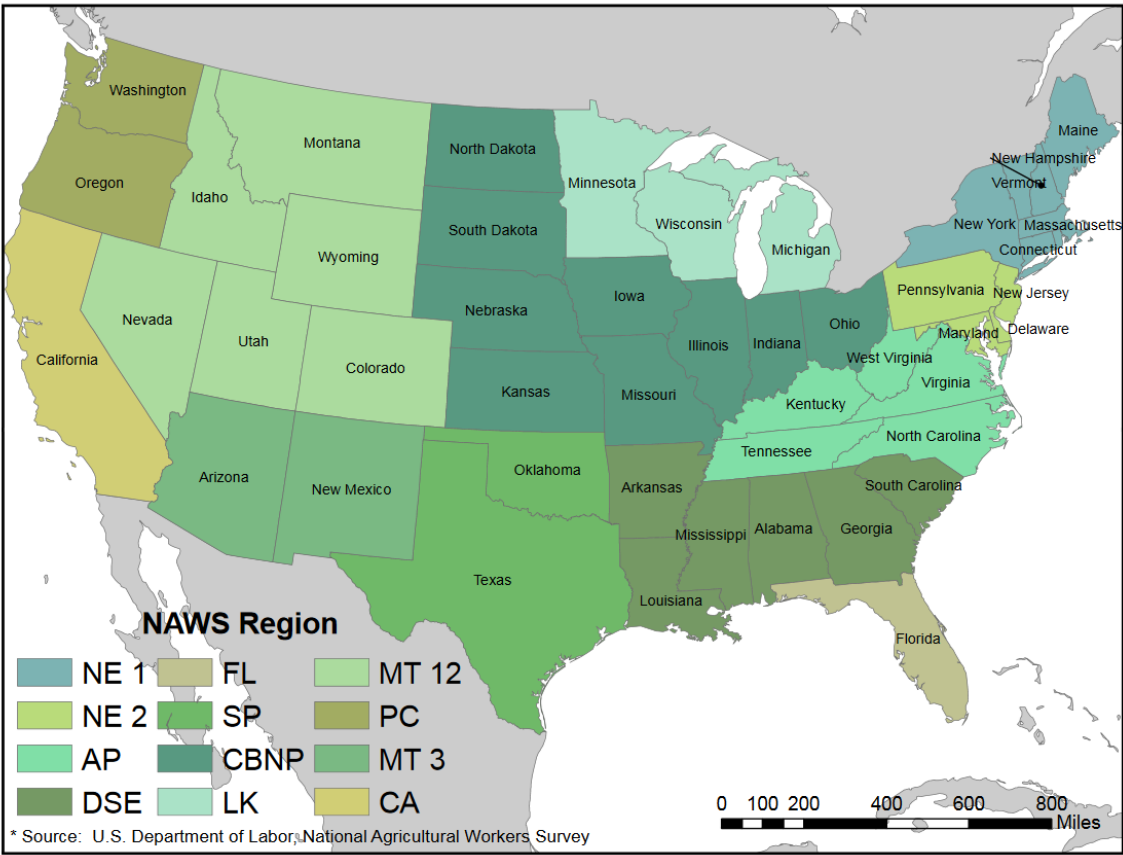
Sincerely,

A handwritten signature in cursive script, appearing to read 'Susan M. Gabbard'.

Susan M. Gabbard, PH.D
Project Director

Silver Spring, MD ▼ San Francisco, CA ▼ Washington, DC ▼ Olympia, WA
Headquarters: JBS International, Inc., 8630 Fenton Street, Suite 1200, Silver Spring, MD 20910-3803
www.jbsinternational.com ▼ www.aguirreinternational.com

Appendix B: Map of NAWS Sampling regions



ENGLISH
Cycle 77, FALL 2013
OMB NO. 1205-0453
EXPIRATION DATE: 10/31/2015
[REV. Sep 20, 2013]

						7	7					
COUNTY						FARM WORKER ID						
[FOR OFFICE USE ONLY]												

CS2 DATE:

		/			/		
--	--	---	--	--	---	--	--

CS5 CROP:

CS6 TASK:

LANGUAGE DURING INTERVIEW:

[FOR OFFICE USE ONLY]

CROP CODE

--	--	--

TASK CODE

--	--	--

GN:		ID:								
------------	--	------------	--	--	--	--	--	--	--	--

GN REFERRED TO: <input type="checkbox"/> "CONTRACTOR"?: <input type="checkbox"/> OTHER GROWER? <input type="checkbox"/> OTHER?: _____		IF GN REFERRED TO CONTRACTOR, GROWER OR OTHER, WRITE INFORMATION) NAME : _____ ADDRESS: _____ TELEPHONE: _____ () _____ - _____	
-------------------------------------------------------------------------------------------------------------------------------------------------------	--	--------------------------------------------------------------------------------------------------------------------------------------------------------------------------	--

WORKER IS ACTUALLY EMPLOYED BY?: ☐ 1 GROWER ☐ 2 CONTRACTOR

TYPE OF WORK?: ☐ 1 FIELD WORK ☐ 2 NURSERY ☐ 3 PACKING HOUSE ☐ 7 OTHER:

FARM WORKER'S NAME:

LOCAL ADDRESS:	
TELEPHONE:	

INTERVIEWER'S NAME:				CS9 INTERVIEWER'S ID:					
CP5 TIME BEGAN:		:	<input type="checkbox"/> AM <input type="checkbox"/> PM	CP6 TIME ENDED:		:	<input type="checkbox"/> AM <input type="checkbox"/> PM		

Notwithstanding any other provision of law, no person is required to respond to nor shall a person be subject to a penalty for failure to comply with a collection of information subject to the requirements of the Paperwork Reduction Act unless that collection of information displays a currently valid Office of Management and Budget control number. Public reporting burden for this collection of information, which is voluntary, is estimated to average 1 hour (or 60 minutes) per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate to the Office of Policy, Development and Evaluation, ETA, Department of Labor, Room N5641, 200 Constitution Avenue, N.W., Washington, D.C. 20210.

HOUSEHOLD GRID

77

County										Farmworker ID					
A1	A2	A3	A5	A6	A7	A9	A10	A8	A4	A31	A32-33	A34-35	A11	A12	A13
NAME	RELATIONSHIP	SEX	DATE OF BIRTH	BIRTH DATE	COUNTRY OF BIRTH	HIGHEST GRADE LEVEL	COUNTRY SCHOOL	MONTH AND YEAR ENTERED U.S.?	[ASK ALL IN A1]: DOES SHE LIVE WITH YOU NOW? IF NOT, WHERE? [STATE/COUNTRY]	IF NOT HERE, WHY NOT? C O D E	LAST 12 MONTHS, HAVE YOU TRAVELED (OR DONE TO DO FW IN OTHER CITY)? IF YES, [NAME] TRAVELED OR OR JOINED WITH YOU?	PRIOR 12 MONTHS TO (A3-35), HAD YOU TRAVELED (OR DONE TO DO FW IN OTHER CITY)? IF YES, [NAME] TRAVELED OR OR JOINED WITH YOU?	ANY U.S. SCHOOL LAST 12 MONTHS? NOW?	ANY U.S. FW LAST 12 MONTHS?	
A. (FARMWORKER)		M	M	/				/			Y	Y	Y		
B.		M	M	/				/			Y	Y	Y	FW	Y
C.		M	M	/				/			Y	Y	Y	FW	N
D.		M	M	/				/			Y	Y	Y	FW	Y
E.		M	M	/				/			Y	Y	Y	FW	N
F.		M	M	/				/			Y	Y	Y	FW	Y
G.		M	M	/				/			Y	Y	Y	FW	Y
** CODES FOR A7 AND A10 (COUNTRIES AND REGIONS):										***CODES FOR A31					
1= U.S.A. 2= PUERTO RICO 3= MEXICO 4= CENTRAL AMERICA 5= SOUTH AMERICA 6= CARIBBEAN										1= NO CHILD CARE IN THIS LOCATION 2= NO HOUSING IN THIS LOCATION 3= CHILD IN SCHOOL, AFFECTED IF MOVED 7= OTHER:					
*CODES FOR A2 (RELATIONSHIP):															
1= SPOUSE/COMMON LAW SPOUSE 2= OWN CHILD, DEPENDENT OR ADOPTED 3= SIBLING 4= PARENT 5= GRANDCHILD 6= OTHER RELATIVE (COUSINS, UNCLES, ETC.) 7= OTHER:										7= SOUTHEAST ASIA (INDONESIA, CAMBODIA, VIETNAM, LAOS, THAILAND) 8= PACIFIC ISLANDS (THE PHILIPPINES, GUAM, FIJI, ETC.) 9= ASIA (CHINA, JAPAN, KOREA, ETC.) 97= OTHER: 99= NOT ANSWERED					

HOUSEHOLD GRID

77

A1		A2	A3	A5	A6	A7	A9	A10	A8	A4	A31	A32-33	A34-35	A11	A12	A13
NAME		*A2 (RELATIONSHIP):	*A3 (RELATIONSHIP):		County Farmworker ID											
		1 = SPOUSE/COMMON LAW SPOUSE 2 = OWN CHILD, DEPENDENT OR ADOPTED 3 = SIBLING 4 = PARENT 5 = GRANDCHILD 6 = OTHER RELATIVE (COUSINS, UNCLES, ETC.) 7 = OTHER: _____	** CODES FOR A7 AND A10 (COUNTRIES AND REGIONS):													
		1 = U.S.A. 2 = PUERTO RICO 3 = MEXICO 4 = CENTRAL AMERICA 5 = SOUTH AMERICA 6 = CARIBBEAN	***CODES FOR A31													
		1 = NO CHILD CARE IN THIS LOCATION 2 = NO HOUSING IN THIS LOCATION 3 = CHILD IN SCHOOL, AFFECTED IF MOVED 7 = OTHER: _____														
H.																
L.																
J.																
K.																
L.																
M.																
N.																
O.																

[ASK ONLY TO RESPONDENTS WHO - IN FAMILY GRID- HAVE CHILDREN UNDER 6 YEARS OLD WHO HAVE BEEN OR ARE CURRENTLY IN THE U.S.A.]					
<p>Now I'd like to ask you some questions about child care. There are many places and persons that take care of children while parents work. Parents use childcare or a neighbor's home; other times the kids stay at home with their mother, siblings or other relatives...</p>					
<p>HS1. ...Now that you're working here in [NAME OF LOCALITY], how have you arranged for your child (-dren) to be taken care of while you work (FW)? Please tell me all the types of child care arrangements you have used [IF ONLY ONE RESPONSE, PROBE FOR MORE. CHECK ALL THAT APPLY]</p> <p><input type="checkbox"/> a. MSHS</p> <p><input type="checkbox"/> b. Spouse</p> <p><input type="checkbox"/> c. Child(-ren)'s older sibling(s). Age(s)?: _____</p> <p><input type="checkbox"/> d. Other relatives (not spouse or child(-dren)'s older siblings)</p> <p><input type="checkbox"/> e. Out of home (DAYCARE / CENTER / BABYSITTER)</p> <p><input type="checkbox"/> f. Friends / Neighbors</p> <p><input type="checkbox"/> g. Take them to the field (FW)</p> <p><input type="checkbox"/> z. Other (specify): _____</p>			<p>[IF MSHS ("a") WAS NOT MENTIONED IN "HS1", ASK HS4]: ...</p> <p>HS4. ...Have you ever heard of MSHS?</p> <p><input type="checkbox"/> 0 NO [EXPLAIN MSHS. MENTION LOCAL MSHS NAMES, IF STILL "NO," SKIP TO "A15" NEXT SECTION]</p> <p><input type="checkbox"/> 1 YES</p> <p>HS5. Has/Have your child(-dren) ever used MSHS? (When?)</p> <p><input type="checkbox"/> 0 NO [ASK ONLY "HS6"]</p> <p><input type="checkbox"/> 1 YES. NOW, IN THIS LOCATION [SKIP TO "HS7"]</p> <p><input type="checkbox"/> 2 YES. NOT NOW, BUT WITHIN THE LAST 12 MONTHS. [ASK HS6 AND HS7]</p> <p><input type="checkbox"/> 3 YES. BUT, MORE THAN 12 MONTHS [ASK ONLY "HS6"]</p>		
<p>HS2. [IF MORE THAN ONE ANSWER IN HS1, ASK]: Which one do you use most often during an average work week (FW)? [ENTER LETTER CODE IN HS1]: _____</p>			<p>HS6. Why aren't you (or your spouse) using MSHS at this location? [CHECK ALL THAT APPLY]</p> <p><input type="checkbox"/> a. Prefer own child care arrangements</p> <p><input type="checkbox"/> b. No MSHS in this area</p> <p><input type="checkbox"/> c. MSHS not open entire season (FOR FW)</p> <p><input type="checkbox"/> d. Inconvenient hours</p> <p><input type="checkbox"/> e. MSHS full (applied, but no openings)</p> <p><input type="checkbox"/> f. Applied, but did not qualify</p> <p><input type="checkbox"/> g. Does not serve infants / older children</p> <p><input type="checkbox"/> h. Do not like it. Specify: _____</p> <p><input type="checkbox"/> i. Do not qualify. (Specify) Why?: _____</p> <p><input type="checkbox"/> z. Other (specify): _____</p>		
<p>HS3. [ASK ALL] Why do you use this type (the most) while doing FW? [CHECK ALL THAT APPLY]</p> <p><input type="checkbox"/> a. Trust</p> <p><input type="checkbox"/> b. Flexible / Convenient hours</p> <p><input type="checkbox"/> c. Convenient location</p> <p><input type="checkbox"/> d. Culturally compatible (same language, food, staff, etc.)</p> <p><input type="checkbox"/> e. Prepares child for school (e.g., English)</p> <p><input type="checkbox"/> f. Don't know (e.g., spouse decides)</p> <p><input type="checkbox"/> z. Other (specify): _____</p>					
HS7. [ASK QUESTIONS IN REFERENCE TO CHILDREN WHO USE/ USED MSHS IN THE LAST 12 MONTHS]					
a	b	c	d	e	f
CHILD(-REN) WHO USE/USED MSHS [ENTER NAMES]	DATE LAST USED MSHS? (MONTH/YEAR)	LOCATION (CITY/STATE)?	NAME OF CENTER?	HOW DID YOU LEARN ABOUT MSHS? [ENTER CODE]	[INTERVIEWER: CHECK IF CENTER IN "d" is in MSHS LIST]
1	START: ____/____/____ END: ____/____/____	CITY: _____ STATE: _____			<input type="checkbox"/> 0 NO <input type="checkbox"/> 1 YES
2	START: ____/____/____ END: ____/____/____	CITY: _____ STATE: _____			<input type="checkbox"/> 0 NO <input type="checkbox"/> 1 YES
CODES FOR "e":					
1 = PREVIOUS MSHS REFERRED US 2 = RECRUITER FROM MSHS CONTACTED US 3 = SOCIAL WORKER (AGENCY, CLINIC, ETC.) REFERRED ME (SPOUSE)				4 = SAW A FLYER WITH MSHS INFORMATION 5 = A RELATIVE/FRIEND TOLD US ABOUT IT 6 = OTHER: _____	

[THE FOLLOWING QUESTIONS REFER TO OTHER INDIVIDUALS WHO LIVE WITH THE WORKER AND WERE NOT MENTIONED IN THE "HOUSEHOLD GRID"]

A15 Other than those you have already mentioned, how many people live with you now?

TOTAL

Out of those (TOTAL IN "A15"),how many are: ... ↓ →	A20 ... your relatives?	A16 ... doing <i>FW</i> ?	A17 How many are doing <i>NF</i> ?	A18 How many <i>NW</i> ?
a. ...ADULTS? (18 YEARS OR OLDER)? <input type="text"/> <input type="text"/>	<input type="text"/> <input type="text"/>	<input type="text"/> <input type="text"/>	<input type="text"/> <input type="text"/>	<input type="text"/> <input type="text"/>
b. ...CHILDREN? (17 YEARS OR YOUNGER)? <input type="text"/> <input type="text"/>	<input type="text"/> <input type="text"/>	<input type="text"/> <input type="text"/>	<input type="text"/> <input type="text"/>	<input type="text"/> <input type="text"/>
c. ...DO NOT KNOW AGE? <input type="text"/> <input type="text"/>	<input type="text"/> <input type="text"/>	<input type="text"/> <input type="text"/>	<input type="text"/> <input type="text"/>	<input type="text"/> <input type="text"/>

INSURANCE QUESTIONS ABOUT RESPONDENT AND HIS/HER FAMILY
(INDIVIDUALS IN THE "HOUSEHOLD GRID") [DESCRIBE/EXPLAIN "HEALTH INSURANCE"]

A21		A23
In the U.S.A.,... Who has Health (Medical) Insurance in your family? ... How about... ↓ [ONLY FOR CHILDREN: IF YES, ASK HOW MANY OF THE CHILDREN UNDER AND OVER 18 YRS. OLD HAVE INSURANCE. MATCH TOTAL NUMBER WITH FAMILY GRID]		Who pays for it? [USE CODES. MARK ALL THAT APPLY]
a. ...you (farm worker)?	<input type="checkbox"/> 0 NO	<input type="checkbox"/> 1 <input type="checkbox"/> 2 <input type="checkbox"/> 3 <input type="checkbox"/> 4
	<input type="checkbox"/> 1 YES →	<input type="checkbox"/> 5 <input type="checkbox"/> 6: <input type="text"/>
	<input type="checkbox"/> 7 DON'T KNOW	
b. ...your spouse?	<input type="checkbox"/> 0 NO	<input type="checkbox"/> 1 <input type="checkbox"/> 2 <input type="checkbox"/> 3 <input type="checkbox"/> 4
	<input type="checkbox"/> 1 YES →	<input type="checkbox"/> 5 <input type="checkbox"/> 6: <input type="text"/>
	<input type="checkbox"/> 7 DON'T KNOW	
c. ...your children?	A21c2	A24
	<input type="checkbox"/> 0 NO	(a) How many under 18 yrs?: <input type="text"/> <input type="text"/>
	<input type="checkbox"/> 1 YES, ALL HAVE IT [ASK A23]	(b) How many over 18 yrs?: <input type="text"/> <input type="text"/>
	<input type="checkbox"/> 2 YES, ONLY SOME HAVE IT →	<input type="checkbox"/> 1 <input type="checkbox"/> 2 <input type="checkbox"/> 3 <input type="checkbox"/> 4
	<input type="checkbox"/> 7 DON'T KNOW	<input type="checkbox"/> 5 <input type="checkbox"/> 6: <input type="text"/>
<p align="center">CODES FOR "A23" (WHO PAYS?):</p> <p>1= I PAY 3= MY EMPLOYER 5= GOVERNMENT 2= MY SPOUSE 4= MY SPOUSE'S EMPLOYER 6= OTHER: <input type="text"/></p>		

B4 In the last 2 years [LAST 24 MONTHS], has anyone in your household (from "Family Grid")- **excluding yourself** - participated in, attended or received any training, **special** classes or schools in the U.S.? [READ CHOICES. **CHECK ALL THAT APPLY**]: ...

- ☐ a. ...Adult Education such as English/ESL/Adult Basic Education/ Citizenship?
- ☐ d. ...Job training?:
- ☐ f. ...GED (High School Equivalency)?
- ☐ j. ...Migrant Education?
- ☐ k. ...Head Start?
- ☐ l. ...Migrant Head Start?
- ☐ n. ...Other?:
- ☐ Don't know

G4 In the last 2 years [LAST 24 MONTHS], have you or anyone in your household received benefits or used the services of any of the following social programs? [READ CHOICES. **CHECK ALL THAT APPLY**]: ...

- ☐ p. ... (TANF) Temporary assistance for needy families?
- ☐ b. ...Food stamps?
- ☐ c. ...Disability insurance?
- ☐ d. ...Unemployment insurance?
- ☐ e. ...Social Security?
- ☐ f. ...Veteran's pay?
- ☐ g. ...General assistance/welfare?
- ☐ h. ...Low income housing?
- ☐ i. ...Public Health Clinic?
- ☐ j. ...Medicaid?
- ☐ k. ...WIC?
- ☐ l. ...Disaster Relief?
- ☐ m. ...Legal Services?
- ☐ n. ...Other?:
- ☐ Don't know

G6 Do you own or are you buying any of the following items in the U.S.? [READ CHOICES. **CHECK ALL THAT APPLY**]: ...

- ☐ a. ...a plot of land?
- ☐ b. ...a house?
- ☐ c. ...a mobile home?
- ☐ d. ...a car/truck?
- ☐ e. ...a business?
- ☐ f. ...other?:
- ☐ None

G7 [ASK "G7" ONLY FOR THOSE BORN OUTSIDE THE U.S.A.] ...And in your home country, do you own or are you buying any of the following items? [READ CHOICES. **CHECK ALL THAT APPLY**]: ...

- ☐ a. ...a plot of land?
- ☐ b. ...a house?
- ☐ c. ...a mobile home?
- ☐ d. ...a car/truck?
- ☐ e. ...a business?
- ☐ f. ...other?:
- ☐ None

B1 [ASK ALL] Which of the following describes you? [READ CHOICES. **CHECK ONLY ONE**]: ...

- ☐ 1 ...MEXICAN-AMERICAN?
- ☐ 2 ...MEXICAN?
- ☐ 3 ...CHICANO?
- ☐ 5 ...PUERTO RICAN?
- ☐ 4 ...OTHER HISPANIC?:
- ☐ 7 ...NOT HISPANIC OR LATINO?

B2 Which of the following do you consider yourself? [READ CHOICES EXCEPT "OTHER." **MARK ONE OR MORE RESPONSE**]: ...

- ☐ 1 ...White?
- ☐ 2 ...Black or African American?
- ☐ 4 ...American Indian/Alaska Native?
- ☐ 5 ...Asian?
- ☐ 6 ...Native Hawaiian or Pacific Islander?

☐ 7 ...Other?:

B3 Have you ever participated in, attended or received any job training or attended any of the following special classes or school in the U.S.? [READ CHOICES. **CHECK ALL THAT APPLY**]: ...

- ☐ d. ...Job training?:
- ☐ a. ...English/ESL?
- ☐ b. ...Citizenship?
- ☐ c. ...Literacy?
- ☐ e. ...GED, High School Equivalency?
- ☐ f. ...College or University?
- ☐ g. ...Adult Basic Education?
- ☐ h. ...Even Start?
- ☐ i. ...Migrant Education?
- ☐ j. ...Other?:
- ☐ None

[IF FOREIGN BORN, ASK:]					
B18. Where were you born? In what...			B16. When you lived in your country, did you work in...	B17-18. Before coming to the USA, you lived in what...	
(d) ...STATE?: (DEPARTMENT)	(e) ...MUNICIPALITY (EQUIVALENT)?:	(f) ...TOWN (OR CITY)?:	<input type="checkbox"/> 1 ...AGRICULTURE [FW]? <input type="checkbox"/> 2 ...NON-AGRICULTURE [NF]? <input type="checkbox"/> 3 ...PART FARM AND PART NON-FARM [FW AND NF]? <input type="checkbox"/> 6 ...NEVER WORKED? <input type="checkbox"/> 8 NOT APPLICABLE [ONLY FOR THOSE BORN IN THE U.S.]	(B17) ...COUNTRY?:	(B18) ...STATE (OR DEPARTMENT)?:

LANGUAGE SECTION					
B7 How well do you speak English? [READ CHOICES. MARK ONLY ONE RESPONSE]: ... <input type="checkbox"/> 1 ...Not at all? <input type="checkbox"/> 3 ...Somewhat? <input type="checkbox"/> 2 ...A little? <input type="checkbox"/> 4 ...Well?			B8 How well do you read English? [READ CHOICES. MARK ONLY ONE RESPONSE]: ... <input type="checkbox"/> 1 ...Not at all? <input type="checkbox"/> 3 ...Somewhat? <input type="checkbox"/> 2 ...A little? <input type="checkbox"/> 4 ...Well?		
B20		B21		B24	
When you were a child, in what languages did adults speak to you at home? [CHECK ALL THAT APPLY] ✓		And now, as an adult, what languages can you speak? [CHECK ALL THAT APPLY] ✓ [FOR EACH CHECKED ANSWER, ASK:] <div style="display: flex; justify-content: space-around;"> <div> B22 And now, how well do you speak it? [READ CHOICES. MARK ONLY ONE PER CHECK]: <input type="checkbox"/> 2 ...A LITTLE? <input type="checkbox"/> 3 ...SOMEWHAT? <input type="checkbox"/> 4 ...WELL? </div> <div> B23 And now, how well do you read it? [READ CHOICES. MARK ONLY ONE PER CHECK]: <input type="checkbox"/> 1 ...NOT AT ALL? <input type="checkbox"/> 2 ...A LITTLE? <input type="checkbox"/> 3 ...SOMEWHAT? <input type="checkbox"/> 4 ...WELL? </div> </div>		In which language do you believe you are most dominant (comfortable) conversing? [CHECK ONE] ✓	
a	ENGLISH				
b	SPANISH		<input type="checkbox"/> 2 ...A LITTLE? <input type="checkbox"/> 3 ...SOMEWHAT? <input type="checkbox"/> 4 ...WELL?	<input type="checkbox"/> 1 ...NOT AT ALL? <input type="checkbox"/> 2 ...A LITTLE? <input type="checkbox"/> 3 ...SOMEWHAT? <input type="checkbox"/> 4 ...WELL?	
c	CREOLE		<input type="checkbox"/> 2 ...A LITTLE? <input type="checkbox"/> 3 ...SOMEWHAT? <input type="checkbox"/> 4 ...WELL?	<input type="checkbox"/> 1 ...NOT AT ALL? <input type="checkbox"/> 2 ...A LITTLE? <input type="checkbox"/> 3 ...SOMEWHAT? <input type="checkbox"/> 4 ...WELL?	
d	MIXTEC		<input type="checkbox"/> 2 ...A LITTLE? <input type="checkbox"/> 3 ...SOMEWHAT? <input type="checkbox"/> 4 ...WELL?	<input type="checkbox"/> 1 ...NOT AT ALL? <input type="checkbox"/> 2 ...A LITTLE? <input type="checkbox"/> 3 ...SOMEWHAT? <input type="checkbox"/> 4 ...WELL?	
e	KANJOBAL		<input type="checkbox"/> 2 ...A LITTLE? <input type="checkbox"/> 3 ...SOMEWHAT? <input type="checkbox"/> 4 ...WELL?	<input type="checkbox"/> 1 ...NOT AT ALL? <input type="checkbox"/> 2 ...A LITTLE? <input type="checkbox"/> 3 ...SOMEWHAT? <input type="checkbox"/> 4 ...WELL?	
f	ZAPOTEC		<input type="checkbox"/> 2 ...A LITTLE? <input type="checkbox"/> 3 ...SOMEWHAT? <input type="checkbox"/> 4 ...WELL?	<input type="checkbox"/> 1 ...NOT AT ALL? <input type="checkbox"/> 2 ...A LITTLE? <input type="checkbox"/> 3 ...SOMEWHAT? <input type="checkbox"/> 4 ...WELL?	
z	OTHER:		<input type="checkbox"/> 2 ...A LITTLE? <input type="checkbox"/> 3 ...SOMEWHAT? <input type="checkbox"/> 4 ...WELL?	<input type="checkbox"/> 1 ...NOT AT ALL? <input type="checkbox"/> 2 ...A LITTLE? <input type="checkbox"/> 3 ...SOMEWHAT? <input type="checkbox"/> 4 ...WELL?	

B10 In what **month** and year did you first do any farm work in the U.S.? (First time **FW** in the U.S.) [ASK FOR MONTH AND YEAR]

□	□	/	□	□	□	□
MONTH /			YEAR			

B11 Approximately how many years have you done **farmwork** in the U.S.? [COUNT ANY YEAR IN WHICH **15 DAYS OR MORE WERE WORKED**].

□	□
---	---

 years

B12 Approximately how many years have you done **non-farmwork** in the U.S.? [COUNT ANY YEAR IN WHICH **15 DAYS OR MORE WERE WORKED**]

□	□
---	---

 years

B13 When was the last time **your parents** did hired farm-work in the U.S.?

- ☐ 0 NEVER
☐ 1 NOW / **WITHIN LAST YEAR**
☐ 2 **ONE TO FIVE YEARS AGO**
☐ 3 **SIX TO TEN YEARS AGO**
☐ 4 **OVER 11 YEARS AGO**
☐ 7 DON'T KNOW

B26-27 ...And where were your **parents** born? ...In what...

...COUNTRY?:

(B26a) FATHER: (B27a) MOTHER?:

--	--

[ASK QUESTIONS BELOW ONLY FOR FOREIGN COUNTRY in "B26a" and "B27a"]:

...STATE (OR DEPARTMENT OR EQUIVALENT)?:

(B26b) FATHER: (B27b) MOTHER?:

--	--

...MUNICIPALITY (OR DISTRICT OR EQUIVALENT)?:

(B26c) FATHER: (B27c) MOTHER?:

--	--

...TOWN (OR CITY) ?

(B26d) FATHER: (B27d) MOTHER?:

--	--

D33a While you are working for this grower/contractor, what type of payment arrangement do you have for your living quarters? [IF **PAYMENT IS ONLY FOR UTILITIES, CONSIDER IT FREE. DO NOT READ CHOICES. MARK ONLY ONE**]:

☐ 10 I (OR I AND MY FAMILY) RECEIVE **FREE** HOUSING FROM MY **EMPLOYER**. [SKIP TO **D34A**]

☐ 3 I **PAY** FOR HOUSING PROVIDED BY MY **EMPLOYER**. (I PAY DIRECTLY OR THROUGH WAGE DEDUCTION).

☐ 5 I **PAY** FOR HOUSING PROVIDED BY THE GOVERNMENT, A CHARITY, OR OTHER NON-WORK RELATED INSTITUTION.

☐ 11 **DO NOT PAY RENT**. (I OR FAMILY MEMBER **OWN** THE **HOUSE** OR LIVE FOR FREE WITH FRIENDS OR RELATIVES) [SKIP TO **D34A**]

☐ 12 I **RENT** FROM **NON-EMPLOYER** (RELATIVE OR NON-RELATIVE)

☐ 97 **OTHER**:

--

D50 At this location how much do **you** pay for housing (including housing for your family, if they live with you)?

☐ 1

per week \$

□	□	□	□	□	□
---	---	---	---	---	---

or
per month \$

□	□	□	□	□	□
---	---	---	---	---	---

or
per day \$

□	□	□	□	□	□
---	---	---	---	---	---

☐ 2 DON'T KNOW, TAKEN OUT OF MY PAYCHECK

☐ 3 DON'T KNOW/DON'T REMEMBER, BUT **NOT** TAKEN OUT OF MY PAYCHECK

☐ 7 **OTHER**:

--

D34a In what type of living quarters do you live now (housing structure at this location)?
[READ CHOICES. MARK **ONLY ONE**]:

...Is it a (an)...

- ☐ 1 ...Mobile home?
- ☐ 2 ...Single-family home (detached)?
- ☐ 3 ...Duplex, triplex, etc. (attached, own parking space with direct access to home)?
- ☐ 4 ...Apartments (two or more in a building, shared parking spaces)?
- ☐ 5 ...Dormitory or barracks?
- ☐ 6 ...Campsite or tent?
- ☐ 7 ...Motel or hotel?
- ☐ 8 ...Without shelter, "homeless." (Includes "sleeping in a car")? [SKIP TO **D36a**]
- ☐ 97 ...Other:

D35 Where are your living quarters located?
[READ CHOICES. MARK **ONLY ONE**]: ...

- ☐ 1 ...**Off farm** in property **not** owned or administered by your present employer?
- ☐ 2 ...**Off farm** in property owned or administered by your present employer?
- ☐ 3 ...**On farm** of the grower you currently work for?
- ☐ 7 ...Other?:

D54 How many of the following do you have in your current living quarters (dwelling)...

- ☐ a. ...Bedrooms?:
- ☐ b. ...Bathrooms?:
- ☐ c. ...Kitchens?:
- ☐ f. ...Other rooms?:

D52 How many people total sleep in these rooms? [VERIFY RESPONSE BY ADDING TOTAL NUMBER GIVEN IN HOUSEHOLD GRID PLUS TOTAL IN **A15**. IF ANSWERS DO NOT MATCH MAKE APPROPRIATE CHANGES]

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D36a [FOR PARENTS OF CHILDREN 12 YEARS OLD OR YOUNGER] I already asked you about the daycare arrangements for your children under 6 years old here in (**NAME OF LOCATION**)...How about in all the places you've lived in the past **12 MONTHS**, where have all your children **12 years old or younger** stayed while you are working (**FW** in the USA)?
[CHECK ALL THAT APPLY]

- ☐ 1 THEY'VE STAYED HOME ALONE, AT LEAST SOMETIMES
- ☐ 13 WITH MY SPOUSE, OTHER FAMILY
- ☐ 14 WITH A NEIGHBOR / BABYSITTER, MIGRANT HEAD START, HEAD START, MIGRANT EDUCATION, DAYCARE CENTER, ETC.
- ☐ 11 WITH ME IN THE FIELDS
- ☐ 12 OTHER:

REMEMBER FOR INTERVIEWER:
BEFORE BEGINNING WITH "THE WORK GRID" ASK FOR "NW" AND "AB" PERIODS: "DURING THE LAST 12 MONTHS, FOR 5 OR MORE DAYS ...HAVE YOU BEEN ILL OR SICK? ...HAVE YOU BEEN UNEMPLOYED? ...HAVE YOU TRAVELED OUT OF THE COUNTRY?" [USE THE AFFIRMATIVE RESPONSES TO PROBE AND DOCUMENT DATES HERE OR DURING THE QUESTIONS IN THE "WORK GRID"]:

WORK GRID

[C1-C2 FOR OFFICE USE ONLY]

[C1-C2 FOR OFFICE USE ONLY]		REPORT FROM FIRST PERIOD COVERING OCTOBER 01, 2012 TO PRESENT										County <u>77</u> Farmworker ID				
C1-C2	C15	C3	C4	C5	C6	C8	C9	C10	C11	C12	C13	C7	C16			
PER. AND SUB PER. NO.	GR CO [FW ONLY]	EMPLOYER'S NAME (FARM WORK, NON-FARM WORK AND WORK ABROAD)	CROP	WRITE ACTIVITY OR TASK WHILE WORKING (USE CODES FOR "NW" AND "AB")	FW? NF?		RECEIVED UNEMPLOYMENT?	DATES FOR PERIODS OF FW, NF, NW, AB		# OF WORK DAYS PER WEEK? FW & NF	CITY	COUNTY NAME (IF IN A BORDER COUNTY ASK IF COMUTE FROM MEXICO)	STATE/COUNTRY	***FW AND NF: WHY LEFT? [CODES]	WERE YOUR SPOUSE AND KIDS WITH YOU?	
					FW?	NF?		FROM:	TO:							COMMUTE FROM MEXICO TO DO FW?
	GR					FW										
	CO					NF	Y									
	GR					NW	N									
	CO					AB	N									
	GR					FW	Y									
	CO					NF	N									
	GR					NW	N									
	CO					AB	N									
	GR					FW	Y									
	CO					NF	N									
	GR					NW	N									
	CO					AB	N									
	GR					FW	Y									
	CO					NF	N									
	GR					NW	N									
	CO					AB	N									

*** C-3 ACTIVITY CODES: ONLY FOR "NW" (IN THE U.S.A.)**
 [WRITE ACTIVITY FOR FW AND NF]
 201 = LOOKING FOR FW AND NF 206 = FAMILY RESPONSIBILITIES/WORK
 202 = WORK 207 = IN SCHOOL
 203 = WORK 208 = Laid up due to injury
 204 = WAITING FOR RECALL 209 = IN-TRANSIT BETWEEN JOBS
 205 = WAITING FOR START OF SEASON 210 = VACATION
 211 = DID NOT LOOK FOR WORK
 212 = OTHER: (SPECIFY IN GRID)

**** C-5 ACTIVITY CODES: ONLY FOR "AB"**
 (WHILE IN A FOREIGN COUNTRY OR ABROAD):
 311 = FW IN FAMILY RANCH
 312 = FW-HIRED
 320 = NF IN OWN BUSINESS: (SPECIFY IN GRID)
 341 = NF IN "MAQUILA"
 359 = NF- OTHER: (SPECIFY IN GRID)
 361 = NW - MEDICAL TREATMENT
 362 = NW - VACATION
 369 = NW - OTHER: (SPECIFY IN GRID)

***** C-7 CODES: WHY LEFT "FW" AND "NF"?**
 1 = LAID OFF/END OF SEASON
 2 = FIRED
 3 = FAMILY RESPONSIBILITIES
 4 = SCHOOL
 5 = MOVED
 6 = HEALTH REASON
 7 = VACATION

8 = RETIRED
 9 = QUIT
 10 = CHANGE JOBS
 11 = OTHER (SPECIFY):

WORK GRID

[C1-C2 FOR OFFICE USE ONLY]

County

77

Farmworker ID

REPORT FROM FIRST PERIOD COVERING OCTOBER 01, 2012 TO PRESENT

C1-C2	C15	C3	C4	C5	C6	C8	C9	C10	C11	C12	C13	C7	C16
PER. AND SUB PER. NO.	GR CO [FW ONLY]	EMPLOYER'S NAME (FARM WORK, NON-FARM WORK, AND WORK ABROAD)	CROP	WRITE ACTIVITY OR TASK WHILE FW AND NF [USE CODES FOR "NW" AND "AB"]	FW? NF?		RECEIVED UNEMPLOYMENT?	DATES FOR PERIODS OF FW, NF, NW, AB		CITY	COUNTY NAME (IF IN A BORDER COUNTY ASK IF COMMUTE FROM MEXICO)	***FW AND NF: WHY LEFT? [CODES]	WERE YOUR SPOUSE AND KIDS WITH YOU?
					NW?	AB?		FROM:	TO:				
	GR				FW	NF	Y						SPOUSE CHILDREN ALL NO
	CO				NW	AB	N						SPOUSE CHILDREN ALL NO
	GR				FW	NF	Y						SPOUSE CHILDREN ALL NO
	CO				NW	AB	N						SPOUSE CHILDREN ALL NO
	GR				FW	NF	Y						SPOUSE CHILDREN ALL NO
	CO				NW	AB	N						SPOUSE CHILDREN ALL NO
	GR				FW	NF	Y						SPOUSE CHILDREN ALL NO
	CO				NW	AB	N						SPOUSE CHILDREN ALL NO
	GR				FW	NF	Y						SPOUSE CHILDREN ALL NO
	CO				NW	AB	N						SPOUSE CHILDREN ALL NO

* C-5 ACTIVITY CODES: ONLY FOR "NW" (IN THE U.S.A.)
[WRITE ACTIVITY FOR FW AND NF]

201 = LOOKING FOR FW AND NF WORK
202 = LOOKING FOR FARM WORK
203 = LOOKING FOR NF WORK
204 = WAITING FOR RECALL NOTICE(AFTER LAYOFF)
205 = WAITING FOR START OF SEASON

** C-5 ACTIVITY CODES: ONLY FOR "AB" (WHILE IN A FOREIGN COUNTRY OR ABROAD):

311 = FW IN FAMILY RANCH
312 = FW-HIRED
320 = NF IN OWN BUSINESS: (SPECIFY IN GRID)
341 = NF IN "MAQUILA"
359 = NF- OTHER: (SPECIFY IN GRID)
361 = NW - MEDICAL TREATMENT
362 = NW - VACATION
369 = NW - OTHER: (SPECIFY IN GRID)

*** C-7 CODES: WHY LEFT "FW" AND "NF"?

1 = LAID OFF/END OF SEASON
2 = FIRED
3 = FAMILY RESPONSIBILITIES
4 = SCHOOL
5 = MOVED
6 = HEALTH REASON
7 = VACATION

8 = RETIRED
9 = QUIT
10 = CHANGE JOBS
11 = OTHER (SPECIFY):

[C1-C2 FOR OFFICE USE ONLY]

WORK GRID

County 77 Farmworker ID

REPORT FROM FIRST PERIOD COVERING OCTOBER 01, 2012 TO PRESENT

C1-C2	C15	C3	C4	C5	C6		C8	C9		C10	C11	C12	C13	C7	C16
PER. AND SUB PER. NO.	GR CO [FW ONLY]	EMPLOYER'S NAME FOR: FW, NF AND WORK AB	CROP	WRITE ACTIVITY OR TASK WHILE FW AND NF [USE CODES FOR "NW AND "AB"]	FW? NF?		RECEIVED UNEMPLOYMENT?	DATES FOR PERIODS OF FW, NF, NW, AB		# OF WORK DAYS PER WEEK? FW & NF	CITY	COUNTY [IF IN A BORDER COUNTY ASK IF COMMUTE FROM MEXICO]	STATE/COUNTRY	***FW AND NF: WHY LEFT? [CODES]	WERE YOUR SPOUSE AND KIDS WITH YOU?
					NW?	AB?		FROM:	TO:						
	GR				FW	NF	Y								
	CO				NW	AB	N								
	GR				FW	NF	Y								
	CO				NW	AB	N								
	GR				FW	NF	Y								
	CO				NW	AB	N								
	GR				FW	NF	Y								
	CO				NW	AB	N								
	GR				FW	NF	Y								
	CO				NW	AB	N								
	GR				FW	NF	Y								
	CO				NW	AB	N								

* C-5 ACTIVITY CODES: ONLY FOR "NW" (IN THE U.S.A.) [WRITE ACTIVITY FOR FW AND NF]	** C-5 ACTIVITY CODES: ONLY FOR "AB" (WHILE IN A FOREIGN COUNTRY OR ABROAD):	*** C-7 CODES: WHY LEFT "FW" AND "NF"?
201 = LOOKING FOR FW AND NF 202 = WORK 203 = WORK 204 = WAITING FOR NF WORK 205 = WAITING FOR NF WORK 206 = WAITING FOR NF WORK 207 = WAITING FOR NF WORK 208 = WAITING FOR NF WORK 209 = WAITING FOR NF WORK 210 = WAITING FOR NF WORK 211 = WAITING FOR NF WORK 212 = WAITING FOR NF WORK	311 = FW IN FAMILY RANCH 312 = FW-HIRED 320 = NF IN OWN BUSINESS: (SPECIFY IN GRID) 341 = NF IN "MAQUILA" 359 = NF-OTHER: (SPECIFY IN GRID) 361 = NW - MEDICAL TREATMENT 362 = NW - VACATION 369 = NW - OTHER: (SPECIFY IN GRID)	1 = LAID OFF/END OF SEASON 2 = FIRED 3 = FAMILY RESPONSIBILITIES 4 = SCHOOL 5 = MOVED 6 = HEALTH REASON 7 = VACATION 8 = RETIRED 9 = QUIT 10 = CHANGE JOBS 11 = OTHER (SPECIFY):

WORK GRID

County 77 Farmworker ID

[C1-C2 FOR OFFICE USE ONLY]

REPORT FROM FIRST PERIOD COVERING OCTOBER 01, 2012 TO PRESENT

C1-C2	C15	C3	C4	C5	C6	C8	C9	C10	C11	C12	C13	C7	C16	
PER. AND SUB. NO.	GR CO [FW ONLY]	EMPLOYER (FARM WORK, NON-FARM AND ABROAD JOB)	CROP	ACTIVITY OR TASK WHILE FW AND NF [USE CODES FOR "NW AND "AB"]	FW? NF?		RECEIVED UNEMPLOYMENT?	DATES FOR PERIODS OF FW, NF, NW, AB		CITY	COUNTY (IF IN A BORDER COUNTY ASK IF COMMUTE FROM MEXICO)	STATE/COUNTRY	***FW AND NF: WHY LEFT? [CODES]	WERE YOUR SPOUSE AND KIDS WITH YOU?
					NW? AB?	FROM:		TO:	COMMUTE FROM MEXICO TO DO FW?					
	GR				FW NF	Y								
	CO				NW AB	N								
	GR				FW NF	Y								
	CO				NW AB	N								
	GR				FW NF	Y								
	CO				NW AB	N								
	GR				FW NF	Y								
	CO				NW AB	N								
	GR				FW NF	Y								
	CO				NW AB	N								

* C-5 ACTIVITY CODES: ONLY FOR "NW" (IN THE U.S.A.) [WRITE ACTIVITY FOR FW AND NF]	** C-5 ACTIVITY CODES: ONLY FOR "AB" (WHILE IN A FOREIGN COUNTRY OR ABROAD):	*** C-7 CODES: WHY LEFT "FW" AND "NF"?
201 = LOOKING FOR FW AND NF WORK 202 = LOOKING FOR FARM WORK 203 = LOOKING FOR NF WORK 204 = WAITING FOR RECALL 205 = WAITING FOR START OF SEASON	311 = FW IN FAMILY RANCH 312 = FW-HIRED 320 = NF IN OWN BUSINESS: (SPECIFY IN GRID) 341 = NF IN "MAQUILA" 359 = NF-OTHER: (SPECIFY IN GRID) 361 = NW - MEDICAL TREATMENT 362 = NW - VACATION 369 = NW - OTHER: (SPECIFY IN GRID)	1 = LAID OFF/END OF SEASON 2 = FIRED 3 = FAMILY RESPONSIBILITIES 4 = SCHOOL 5 = MOVED 6 = HEALTH REASON 7 = VACATION 8 = RETIRED 10 = QUIT 11 = CHANGE JOBS 9 = OTHER (SPECIFY):

D1 In the year before last [FROM OCTOBER 2011 TO OCTOBER 2012, YEAR BEFORE THE ONE COVERED IN WORK GRID], how many months did you do (FW) in the U.S.? [1 DAY OR MORE PER MONTH EQUALS 1 MONTH]

months

D2 [IF NON-FARM JOB LISTED ON WORK GRID]: For your most recent non-farm (NF) employer, how many hours per week did you work on average?

hours

D3 [IF NON-FARM JOB LISTED] For your most recent non-farm employer (NF), how much were you paid per week on average?

\$, .

CURRENT FARM JOB

Now I am going to ask you some questions about the FW you are CURRENTLY performing for the EMPLOYER through whom we contacted you [INCLUDED IN A WORK GRID PERIOD].

D4 How many hours did you work last week at your current farm job?

hours

[D5 TO D8: IF SHE/HE HAS NOT RECEIVED PAYMENT YET FOR CURRENT CROP, ASK FOR ESTIMATES]: Can you tell me how you were paid and the amount your employer paid you on your last pay day?

D5 After taxes:

\$, .

D6 Before taxes:

\$, .

D61 Were you paid by [READ CHOICES. MARK ONE RESPONSE]:...

- ☐ 1 ...PAYROLL CHECK? ☐ 4 ...OTHER CHECK?
☐ 2 ...PERSONAL CHECK? ☐ 5 ...CASH?
☐ 3 ...CASH AND CHECK? ☐ 6 ...OTHER:

D62 Did you get a receipt?

- ☐ 0 NO ☐ 1 YES

D7 For what time period was that payment?

- ☐ 1 ONE DAY? ☐ 4 ONE MONTH?
☐ 2 ONE WEEK? ☐ 7 OTHER?:
☐ 3 TWO WEEKS?

D8 How many hours did you work during that period (in D7)?

hours

D9 ...Now - with your current employer - you already told me that the crop you are currently working is:...

D10 And you told me that - with your current employer - the task you are now doing is:

D11 Are you paid: ...

- ☐ 1 ...BY THE HOUR?
☐ 2 ...BY THE PIECE? [SKIP TO D13]
☐ 3 ...COMBINATION HOURLY WAGE AND PIECE RATE? [ASK D12 THRU D18]
☐ 4 ...SALARY OR OTHER? [SKIP TO D19]

D12 How much per hour (to nearest cent)? [IF PAID ONLY BY THE HOUR, ENTER AMOUNT AND SKIP TO D20. IF COMBINATION, ENTER AMOUNT AND CONTINUE WITH D13]:

\$. PER HOUR

D13 [IF PAID BY THE PIECE]: Are you paid as an individual or by the crew? [IF THE ANSWER IS "CREW", ASK QUESTIONS D14 to D18 CONSISTENTLY IN REFERENCE TO THE CREW]

- ☐ 1 INDIVIDUAL [SKIP TO D15]
☐ 2 CREW

D14 [IF CREW PIECE RATE]: How many people are in your crew? [ONE IS NOT A POSSIBLE ANSWER]

D15 [IF BY PIECE]: How do they pay you/your crew [i.e., UNIT OF MEASURE SUCH AS BOX, BIN, BUCKET, ETC.]?

D16 [IF BY PIECE]: How many of these (in D15 e.g., boxes, bins, buckets, etc.) you/your crew do in an average day?

D17 [IF BY PIECE]: How many hours per day you/your crew work on average at this task?

 hours

D18 [IF BY PIECE]: How much do "they" pay you/your crew on average for each (box bin, bucket, etc. in D15)?

\$

D19 [IF PAID BY SALARY, OR OTHER]: Explain fully how and how much you are paid (salary or other). Explain thoroughly the method and amount of payment. [USE BACK OF PAGE IF NEEDED]:

[USE BACK OF PAGE IF NEEDED]

D20 In the **last 12 months**, aside from your wages, have you received (do you receive) any **money bonus** from your current employer?

- ☐ 0 NO [SKIP TO D22]
☐ 1 YES
☐ 7 DON'T KNOW [SKIP TO D22]

D21 [IF PAID A BONUS]: How and when do you receive the **money bonus**? [READ CHOICES. MARK ALL THAT APPLY]:...

- ☐ g. ...retention (return or rehire) bonus?
☐ a. ...holiday bonus?
☐ b. ...incentive bonus (rewards)?
☐ c. ...dependent on grower profit?
☐ d. ...end of season bonus?
☐ e. ...money for transportation?
☐ f. ...Other?:

D23 How much **money bonus** have you been given (**TOTAL last 12 months** with current employer)?

\$

D22 If you are injured **at work** or get sick as a result of your work, does your employer provide health insurance or pay for your health care?

- ☐ 0 NO
☐ 1 YES ☐ 7 DON'T KNOW

D23 If you are injured **at work** or get sick as a result of your work, do you get any payment while you are recuperating (i.e., "workers' compensation")?

- ☐ 0 NO
☐ 1 YES ☐ 7 DON'T KNOW

D24 If you are injured or get sick **off the job** (e.g., at home), does your employer provide health insurance or pay for your health care? [WHETHER OR NOT THE WORKER TAKES IT OR USES IT]

- ☐ 0 NO
☐ 1 YES
☐ 7 DON'T KNOW

- D26** Are you covered by unemployment insurance if you lose this job?
- ☐ 0 NO
☐ 1 YES ☐ 7 DON'T KNOW
- D27** How many years have you worked for this employer? [ONE DAY/PER YEAR=ONE YEAR]
- years
- D28** Do you work for (current employer) year round or on a seasonal basis?
- ☐ 0 YEAR ROUND [SKIP TO D30]
☐ 1 SEASONAL
☐ 7 DON'T KNOW (FIRST TIME) [SKIP TO D30]
- D29** [IF WORKED ON A SEASONAL BASIS] Does this employer keep in contact with you about future employment? [READ CHOICES. MARK ALL THAT APPLY]: ...
- ☐ a. ... Yes, before leaving at the end of the season?
☐ b. ... Yes, by letter (written message)?
☐ c. ... Yes, by phone/in person?
☐ d. ... Yes, by someone else?
☐ e. ... No, you contact employer?
☐ f. ... Other?:
☐ Don't know
- D30** How did you get this job? [DO NOT READ CHOICES. MARK ONLY ONE RESPONSE]
- ☐ 1 I APPLIED FOR THE JOB ON MY OWN
☐ 4 I WAS RECRUITED BY A GROWER OR HIS FOREMAN
☐ 5 I WAS RECRUITED BY FARM LABOR CONTRACTOR OR HIS FOREMAN
☐ 6 I WAS REFERRED BY THE EMPLOYMENT SERVICE
☐ 7 I WAS REFERRED BY THE WELFARE OFFICE
☐ 8 I WAS REFERRED BY RELATIVE / FRIEND / WORKMATE
☐ 9 I WAS REFERRED BY LABOR UNION
☐ 10 DAY LABORER / PICKED UP AT SHAPE UP
☐ 97 Other:
- D37a** How far is your current job from your current residence?
- ☐ 1 I'M LOCATED AT THE JOB
☐ 2 WITHIN 9 MILES
☐ 3 10-24 MILES
☐ 4 25-49 MILES MILES
☐ 5 50-74 MILES
☐ 6 75 OR MORE
- D37** At your current job, how do you usually get to work? [READ CHOICES. MARK ONE]:...
- ☐ 1 ...DRIVE CAR? [SKIP TO D39a]
☐ 2 ...WALK [SKIP TO D39a]
☐ 5 ...PUBLIC TRANSPORTATION (BUS, TRAIN, ETC.)? [SKIP TO D39a]
☐ 6 ...LABOR BUS, TRUCK, VAN?
☐ 8 ..."RAITERO"?:
☐ 4 ...RIDE WITH OTHERS (SHARES RIDE)?
☐ 7 ...OTHER?:
- D38a** Do you have to use the transport (in D37) (IS IT MANDATORY OR OBLIGATORY)?
- ☐ 0 NO ☐ 1 YES
- D38** Do you pay a fee to (responsible in D37 and/or "raiteros") for rides to work?
- ☐ 0 NO
☐ 1 YES, A FEE
☐ 2 YES, JUST FOR GAS
- D39a** At your current job, who pays for the equipment you use at work? [READ CHOICES. MARK ONLY ONE]:...
- ☐ 1 ...DON'T NEED ANY EQUIPMENT?
☐ 2 ...YOU PAY ALL?
☐ 3 ...THE GROWER/CONTRACTOR PAYS ALL?
☐ 5 ...A FRIEND / RELATIVE PAYS SOME OR ALL?
☐ 6 ...YOU PAY SOME?
☐ 10 ...YOU PAY ONLY FOR REPLACEMENT OF DAMAGED TOOLS?
☐ 11 ...THE GROWER/CONTRACTOR PROVIDES YOU WITH TOOLS, BUT YOU PREFER TO BUY/BRING YOUR OWN?
☐ 12 ...THE GROWER/CONTRACTOR PROVIDES SOME AND YOU HAVE TO BRING/BUY THE REST?
☐ 97 ...OTHER?:

"Now I'm going to ask you some questions about your individual and family income for last year (2012)" ...

G1B ...What was your **total personal income** last year - in **2012** - in U.S. dollars [U.S. earnings only FOR **FW** AND **NF**?]
[READ OR SHOW CHOICES. MARK ONLY ONE]

- ☐ 0 DID NOT WORK AT ALL IN 2012
- ☐ 1 LESS THAN 2,500
- ☐ 2 2,500 TO 4,999
- ☐ 3 5,000 TO 7,499
- ☐ 4 7,500 TO 9,999
- ☐ 5 10,000 TO 12,499
- ☐ 6 12,500 TO 14,999
- ☐ 7 15,000 TO 17,499
- ☐ 8 17,500 TO 19,999
- ☐ 9 20,000 TO 22,499
- ☐ 10 22,500 TO 24,999
- ☐ 11 25,000 TO 27,499
- ☐ 12 27,500 TO 29,999
- ☐ 13 30,000 TO 32,499
- ☐ 14 32,500 TO 34,999
- ☐ 15 35,000 TO 37,499
- ☐ 16 37,500 TO 39,999
- ☐ 17 40,000 TO 44,999
- ☐ 18 45,000 TO 54,999
- ☐ 19 55,000 TO 59,999
- ☐ 20 60,000 OR MORE
- ☐ 97 DON'T REMEMBER (DON'T KNOW)

G2B How much of that income [in "G1A"] was from **agricultural employment** (U.S. earnings only for **FW**)?
[READ / SHOW CHOICES. MARK ONLY ONE]

- ☐ 0 DID NOT WORK AT ALL IN 2012
- ☐ 1 LESS THAN 2,500
- ☐ 2 2,500 TO 4,999
- ☐ 3 5,000 TO 7,499
- ☐ 4 7,500 TO 9,999
- ☐ 5 10,000 TO 12,499
- ☐ 6 12,500 TO 14,999
- ☐ 7 15,000 TO 17,499
- ☐ 8 17,500 TO 19,999
- ☐ 9 20,000 TO 22,499
- ☐ 10 22,500 TO 24,999
- ☐ 11 25,000 TO 27,499
- ☐ 12 27,500 TO 29,999
- ☐ 13 30,000 TO 32,499
- ☐ 14 32,500 TO 34,999
- ☐ 15 35,000 TO 37,499
- ☐ 16 37,500 TO 39,999
- ☐ 17 40,000 TO 44,999
- ☐ 18 45,000 TO 54,999
- ☐ 19 55,000 TO 59,999
- ☐ 20 60,000 OR MORE
- ☐ 97 DON'T REMEMBER (DON'T KNOW)

G3B What was your **family's total income** last year - in **2012** - in U.S. dollars [U.S. earnings for **FW** AND **NF** for all in "FAMILY GRID"]? [READ OR SHOW CHOICES. MARK ONLY ONE]

- ☐ 0 DID NOT WORK AT ALL IN 2012
- ☐ 1 LESS THAN 2,500
- ☐ 2 2,500 TO 4,999
- ☐ 3 5,000 TO 7,499
- ☐ 4 7,500 TO 9,999
- ☐ 5 10,000 TO 12,499
- ☐ 6 12,500 TO 14,999
- ☐ 7 15,000 TO 17,499
- ☐ 8 17,500 TO 19,999
- ☐ 9 20,000 TO 22,499
- ☐ 10 22,500 TO 24,999
- ☐ 11 25,000 TO 27,499
- ☐ 12 27,500 TO 29,999
- ☐ 13 30,000 TO 32,499
- ☐ 14 32,500 TO 34,999
- ☐ 15 35,000 TO 37,499
- ☐ 16 37,500 TO 39,999
- ☐ 17 40,000 TO 44,999
- ☐ 18 45,000 TO 54,999
- ☐ 19 55,000 TO 59,999
- ☐ 20 60,000 OR MORE
- ☐ 97 DON'T REMEMBER (DON'T KNOW)

E1 At any time during the **last 2 years** (in the U.S.), were you covered by a union contract while doing farm work (**FW**)?

- ☐ 0 NO
- ☐ 1 YES
- ☐ 7 DON'T KNOW

E2 How long do you expect to continue doing farm work (**FW** in the U.S.)? [READ CHOICES. MARK ONLY ONE]

- ☐ 1 LESS THAN ONE YEAR
- ☐ 2 ONE TO THREE YEARS
- ☐ 3 FOUR TO FIVE YEARS
- ☐ 4 OVER FIVE YEARS
- ☐ 5 OVER FIVE YEARS/ AS LONG AS I AM ABLE
- ☐ 7 OTHER?:

E4 Could you get a U.S. non-farm job (**NF**) within a month?

- ☐ 0 NO
- ☐ 1 YES
- ☐ 7 DON'T KNOW

SCREENING FOR INJURY SUPPLEMENT

[INTERVIEWER: ...ONLY IF THE RESPONDENT SEEMS HESITANT TO TALK ABOUT INJURIES, e.g., BECAUSE HE/SHE IS FEARFUL, SHOULD YOU REMIND THE RESPONDENT THAT ALL THE INFORMATION HE/SHE SHARES WITH YOU IS CONFIDENTIAL. USE YOUR JUDGMENT ABOUT REMINDING THE INTERVIEWER ABOUT CONFIDENTIALITY AT ANY POINT WHILE ADMINISTERING THIS SUPPLEMENT].

"I would like to ask you some questions about injuries or accidents that you may have had while doing farm work in the United States. These injuries include a car accident while traveling to and from work. They could also be things like:...

...cutting yourself with a sharp tool or knife;
 ...hurting yourself lifting heavy objects, such as crates;
 ...hurting yourself by falling, for example falling off a ladder or crate, or tripping in the field; or
 ...getting sick from working too long in the hot sun, being bitten or stung by an insect, or breathing pesticides while working in the fields."

...In the past 12 months, have you had any injury or accident that made you...

NLS03 ...use any type of first aid, such as a bandage to stop bleeding or antiseptic to clean a wound (or ice packs for a bruise, etc.) or seek medical treatment at a clinic or from a nurse or doctor?

☐ 0 NO
☐ 1 YES

NLS02 ...unable to work as hard as you normally do for at least 4 hours? [or were assigned a different job (or different task) that was easier because the injury prevented you from doing the first job (or task)]

☐ 0 NO
☐ 1 YES

NLS01 ...unable to work for at least 4 hours?

☐ 0 NO
☐ 1 YES

NLS04 ...take strong medicine, except aspirin (or Tylenol or Ibuprofen), to allow you to keep working?

☐ 0 NO
☐ 1 YES

INTERVIEWER:...

...IF THE RESPONDENT ANSWERED "NO" TO ALL OF THE PREVIOUS QUESTIONS (NLS01 TO NLS04), SKIP TO NEXT SECTION ("NP", PAGE 19).



...IF THE RESPONDENT ANSWERED "YES" TO ANY OF THE PREVIOUS QUESTIONS (NLS01 TO NLS04), ASK NL1E

NL1E. HOW MANY OF THESE TYPES OF INJURIES HAVE YOU HAD?

[INTERVIEWER: Write here any spontaneous response related to an injury or injuries (e.g., type of injuries and dates) so you can refer to it when completing the "Injury Supplement"]:



CONTINUE WITH NEXT SECTION ("NP1F") UNTIL COMPLETION OF QUESTIONNAIRE, THEN COMPLETE "INJURY / ACCIDENT -SUPPLEMENT QUESTIONNAIRE"!!!

[REV. Sep 24, 2013] **SECTION EP. NEW EPA VERSION** S-54, Questionnaire62013CYCLE77ENGLBHCY77ENGL62013CY77.apd

EP1. When was the last time you worked two (2) consecutive days? [If worked yesterday, enter yesterday's date as 1st Day]
a. First day [MM/DD/Year]: ____/____/____
b. Second day [MM/DD/Year]: ____/____/____
[If "First day" is more than 15 days from today, skip to EP7, otherwise continue with EP2]:

EP2. On the first day of the consecutive days, at what time did you arrive to work?
____:____ AM/PM

EP3. And...what time did you leave work [First day]?
____:____ AM/PM

EP4. TIME SPENT DOING CROP/TASK ON THE FIRST DAY [REFER TO FIRST DAY IN "EP1a"]

	a	b	c	d
	What crops did you work with the first day?	What tasks were you doing with [crops in "a"] the first day?	How long did you work doing [TASK in "b"] with [CROP in "a"]?	How long were you idle (e.g., rest, break, lunch, etc.) during [TIME in "c"]?
1			Hour(s): Minutes:	Hour(s): Minutes:
2			Hour(s): Minutes:	Hour(s): Minutes:
3			Hour(s): Minutes:	Hour(s): Minutes:
4			Hour(s): Minutes:	Hour(s): Minutes:
5			Hour(s): Minutes:	Hour(s): Minutes:

EP5. SHOWER/BATH
"Due to busy schedules or limited access to washing facilities, it is not always possible for one to take a shower or bath right after work."
EP5. After your first work day [Date in EP1a] were you able to bathe/shower (soap and water)?
0 __NO 1 __YES: When?: [MM/DD/YEAR]: ____/____/____ TIME: ____:____ AM/PM
Where?: [Check one]: __Work __Home __Other (specify): _____

EP6. CLOTHING ARTICLES
"It is also recognized that workers do not always have enough working clothes or enough time or money for washing their work clothes as often as they might like, and that some articles of clothing are not washed as often as others"

	a	b	c
	What clothing articles did you wear on the first day?	...Are you wearing (or did you wear) any of the same clothing articles you wore on yesterday (or first day?) [CHECK ONE]	[REFER TO "YES" AND "NO" ITEMS IN "b"] ...Which of those clothing articles were washed (soap and water) before you wore them (today) again? [CHECK ANSWER]
	YES NO D/K	YES NO	WASHED
1	PANTS		<input type="checkbox"/> YES <input type="checkbox"/> NO
2	LONG SLEEVE SHIRT		<input type="checkbox"/> YES <input type="checkbox"/> NO
3	SHORT SLEEVE SHIRT		<input type="checkbox"/> YES <input type="checkbox"/> NO
4	OTHER: _____		<input type="checkbox"/> YES <input type="checkbox"/> NO

EP7. [Ask this question only if answers to "EP6c" are "YES" to (all): "c1, c2 and c3", otherwise skip to section "NP"]

Have you ever had to wear the same shirt or pants (without washing them) when doing FW?

0 __NO 1 __YES: Which one?: __a. long sleeve shirts? __b. short sleeve shirt __c.pants?

NMS - MUSCULOSKELETAL: (INTERVIEWER: FIRST ASK ALL FIRST COLUMN QUESTIONS)

During the last 12 months [from Oct. of last year until now (month of current year)], have you had pain or discomfort in your...	What type of work were you doing when this pain/discomfort began?	Did you have this pain/discomfort for FIVE (5) or more consecutive days? [If "YES", ask: How many DAYS?]	How severe was this pain/discomfort? [SHOW SCALE BELOW]	How long did you work with this pain/discomfort?	How many days did you NOT WORK because of this pain/discomfort?
	a.	b.	c.	d.	e.
1 NMS (1 TO 6) ...BACK? <input type="checkbox"/> 0 NO <input type="checkbox"/> 1 YES <input type="checkbox"/> 2 YES <input type="checkbox"/> 3 YES	<input type="checkbox"/> FW <input type="checkbox"/> NF <input type="checkbox"/> NW	<input type="checkbox"/> 0 NO <input type="checkbox"/> 1 YES <input type="checkbox"/> 2 YES <input type="checkbox"/> 3 YES	<input type="checkbox"/> 1 A LITTLE <input type="checkbox"/> 2 A LOT <input type="checkbox"/> 3 UNBEARABLE	<input type="checkbox"/> LESS THAN A DAY <input type="checkbox"/> DAYS: <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> WEEKS: <input type="checkbox"/> <input type="checkbox"/> MONTHS: <input type="checkbox"/> DON'T KNOW	<input type="checkbox"/> LESS THAN A DAY <input type="checkbox"/> DAYS: <input type="checkbox"/> <input type="checkbox"/> WEEKS: <input type="checkbox"/> <input type="checkbox"/> MONTHS: <input type="checkbox"/> DON'T KNOW
2 ...SHOULDER / NECK? <input type="checkbox"/> 0 NO <input type="checkbox"/> 1 YES <input type="checkbox"/> 2 YES <input type="checkbox"/> 3 YES	<input type="checkbox"/> FW <input type="checkbox"/> NF <input type="checkbox"/> NW	<input type="checkbox"/> 0 NO <input type="checkbox"/> 1 YES <input type="checkbox"/> 2 YES <input type="checkbox"/> 3 YES	<input type="checkbox"/> 1 A LITTLE <input type="checkbox"/> 2 A LOT <input type="checkbox"/> 3 UNBEARABLE	<input type="checkbox"/> LESS THAN A DAY <input type="checkbox"/> DAYS: <input type="checkbox"/> <input type="checkbox"/> WEEKS: <input type="checkbox"/> <input type="checkbox"/> MONTHS: <input type="checkbox"/> DON'T KNOW	<input type="checkbox"/> LESS THAN A DAY <input type="checkbox"/> DAYS: <input type="checkbox"/> <input type="checkbox"/> WEEKS: <input type="checkbox"/> <input type="checkbox"/> MONTHS: <input type="checkbox"/> DON'T KNOW
3 ...ELBOW / ARM? <input type="checkbox"/> 0 NO <input type="checkbox"/> 1 YES <input type="checkbox"/> 2 YES <input type="checkbox"/> 3 YES	<input type="checkbox"/> FW <input type="checkbox"/> NF <input type="checkbox"/> NW	<input type="checkbox"/> 0 NO <input type="checkbox"/> 1 YES <input type="checkbox"/> 2 YES <input type="checkbox"/> 3 YES	<input type="checkbox"/> 1 A LITTLE <input type="checkbox"/> 2 A LOT <input type="checkbox"/> 3 UNBEARABLE	<input type="checkbox"/> LESS THAN A DAY <input type="checkbox"/> DAYS: <input type="checkbox"/> <input type="checkbox"/> WEEKS: <input type="checkbox"/> <input type="checkbox"/> MONTHS: <input type="checkbox"/> DON'T KNOW	<input type="checkbox"/> LESS THAN A DAY <input type="checkbox"/> DAYS: <input type="checkbox"/> <input type="checkbox"/> WEEKS: <input type="checkbox"/> <input type="checkbox"/> MONTHS: <input type="checkbox"/> DON'T KNOW
4 ...HAND, / WRIST / FINGER? <input type="checkbox"/> 0 NO <input type="checkbox"/> 1 YES <input type="checkbox"/> 2 YES <input type="checkbox"/> 3 YES	<input type="checkbox"/> FW <input type="checkbox"/> NF <input type="checkbox"/> NW	<input type="checkbox"/> 0 NO <input type="checkbox"/> 1 YES <input type="checkbox"/> 2 YES <input type="checkbox"/> 3 YES	<input type="checkbox"/> 1 A LITTLE <input type="checkbox"/> 2 A LOT <input type="checkbox"/> 3 UNBEARABLE	<input type="checkbox"/> LESS THAN A DAY <input type="checkbox"/> DAYS: <input type="checkbox"/> <input type="checkbox"/> WEEKS: <input type="checkbox"/> <input type="checkbox"/> MONTHS: <input type="checkbox"/> DON'T KNOW	<input type="checkbox"/> LESS THAN A DAY <input type="checkbox"/> DAYS: <input type="checkbox"/> <input type="checkbox"/> WEEKS: <input type="checkbox"/> <input type="checkbox"/> MONTHS: <input type="checkbox"/> DON'T KNOW
5 ...LEGS / FEET / TOES? <input type="checkbox"/> 0 NO <input type="checkbox"/> 1 YES <input type="checkbox"/> 2 YES <input type="checkbox"/> 3 YES	<input type="checkbox"/> FW <input type="checkbox"/> NF <input type="checkbox"/> NW	<input type="checkbox"/> 0 NO <input type="checkbox"/> 1 YES <input type="checkbox"/> 2 YES <input type="checkbox"/> 3 YES	<input type="checkbox"/> 1 A LITTLE <input type="checkbox"/> 2 A LOT <input type="checkbox"/> 3 UNBEARABLE	<input type="checkbox"/> LESS THAN A DAY <input type="checkbox"/> DAYS: <input type="checkbox"/> <input type="checkbox"/> WEEKS: <input type="checkbox"/> <input type="checkbox"/> MONTHS: <input type="checkbox"/> DON'T KNOW	<input type="checkbox"/> LESS THAN A DAY <input type="checkbox"/> DAYS: <input type="checkbox"/> <input type="checkbox"/> WEEKS: <input type="checkbox"/> <input type="checkbox"/> MONTHS: <input type="checkbox"/> DON'T KNOW
6 ...OTHER? <input type="checkbox"/> 0 NO <input type="checkbox"/> 1 YES <input type="checkbox"/> 2 YES <input type="checkbox"/> 3 YES	<input type="checkbox"/> FW <input type="checkbox"/> NF <input type="checkbox"/> NW	<input type="checkbox"/> 0 NO <input type="checkbox"/> 1 YES <input type="checkbox"/> 2 YES <input type="checkbox"/> 3 YES	<input type="checkbox"/> 1 A LITTLE <input type="checkbox"/> 2 A LOT <input type="checkbox"/> 3 UNBEARABLE	<input type="checkbox"/> LESS THAN A DAY <input type="checkbox"/> DAYS: <input type="checkbox"/> <input type="checkbox"/> WEEKS: <input type="checkbox"/> <input type="checkbox"/> MONTHS: <input type="checkbox"/> DON'T KNOW	<input type="checkbox"/> LESS THAN A DAY <input type="checkbox"/> DAYS: <input type="checkbox"/> <input type="checkbox"/> WEEKS: <input type="checkbox"/> <input type="checkbox"/> MONTHS: <input type="checkbox"/> DON'T KNOW

A LITTLE A LOT UNBEARABLE

**NP – HANDLING PESTICIDES
(IN THE U.S.A.)**

**NP1f. In the last 12 months, have you
loaded, mixed or applied pesticides?**

- ☐ 0 NO
☐ 1 YES

NT – TRAINING AND INSTRUCTIONS

**NT2a. In the last 12 months, with your
current employer, has anyone given
you training or instructions in the
safe use of pesticides (through video,
audio, cassette, classroom lectures,
written material, informal talks or by
any other means)?**

- ☐ 0 NO
☐ 1 YES

NS – SANITATION SECTION

**“The following questions refer to sanitation
at your job with your current FW employer: ...**

**... Does your current employer provide
EVERY DAY...**

**NS1 ... (potable) clean drinking water and
disposable cups?**

- ☐ 0 NO WATER, NO CUPS
☐ 1 YES, WATER ONLY
☐ 2 YES, WATER AND DISPOSABLE CUPS
☐ 7 DON'T KNOW

NS4 ... a toilet (EVERY DAY)?

- ☐ 0 NO
☐ 1 YES
☐ 7 DON'T KNOW

**NS9 ... (provide) water to wash hands
(EVERY DAY)?**

- ☐ 0 NO
☐ 1 YES
☐ 7 DON'T KNOW

NH – INDIVIDUAL PERSONAL HEALTH HISTORY (LIFETIME)			
[INTERVIEWER: FIRST ASK ALL QUESTIONS IN FIRST COLUMN.]			
Have you ever -- <u>in your whole life</u> -- been told by a doctor or nurse that you have the following conditions: ... ↓	a.	b. Are you currently taking medication for this condition?	c. In the last 12 months, in the U.S. and/or abroad, have you seen a doctor or nurse for (condition in NH1 to NH10 COLUMN)? [IF ANSWER IS "YES" FOR THE U.S. AND "AB" MARK BOTH]
NH1 ...ASTHMA?	<input type="checkbox"/> 0 NO <input type="checkbox"/> 1 YES	<input type="checkbox"/> 0 NO <input type="checkbox"/> 1 YES	<input type="checkbox"/> 0 NO <input type="checkbox"/> 1 YES, IN THE U.S.A. <input type="checkbox"/> 2 YES, "AB": <input type="text"/>
NH2 ...DIABETES?	<input type="checkbox"/> 0 NO <input type="checkbox"/> 1 YES	<input type="checkbox"/> 0 NO <input type="checkbox"/> 1 YES	<input type="checkbox"/> 0 NO <input type="checkbox"/> 1 YES, IN THE U.S.A. <input type="checkbox"/> 2 YES, "AB": <input type="text"/>
NH3 ...HIGH BLOOD PRESSURE?	<input type="checkbox"/> 0 NO <input type="checkbox"/> 1 YES	<input type="checkbox"/> 0 NO <input type="checkbox"/> 1 YES	<input type="checkbox"/> 0 NO <input type="checkbox"/> 1 YES, IN THE U.S.A. <input type="checkbox"/> 2 YES, "AB": <input type="text"/>
NH4 ...TUBERCULOSIS?	<input type="checkbox"/> 0 NO <input type="checkbox"/> 1 YES	<input type="checkbox"/> 0 NO <input type="checkbox"/> 1 YES	<input type="checkbox"/> 0 NO <input type="checkbox"/> 1 YES, IN THE U.S.A. <input type="checkbox"/> 2 YES, "AB": <input type="text"/>
NH5 ...HEART DISEASE?	<input type="checkbox"/> 0 NO <input type="checkbox"/> 1 YES	<input type="checkbox"/> 0 NO <input type="checkbox"/> 1 YES	<input type="checkbox"/> 0 NO <input type="checkbox"/> 1 YES, IN THE U.S.A. <input type="checkbox"/> 2 YES, "AB": <input type="text"/>
NH6 ...URINARY TRACT INFECTIONS?	<input type="checkbox"/> 0 NO <input type="checkbox"/> 1 YES	<input type="checkbox"/> 0 NO <input type="checkbox"/> 1 YES	<input type="checkbox"/> 0 NO <input type="checkbox"/> 1 YES, IN THE U.S.A. <input type="checkbox"/> 2 YES, "AB": <input type="text"/>
NH10 ...OTHER?: <input type="text"/>	<input type="checkbox"/> 0 NO <input type="checkbox"/> 1 YES	<input type="checkbox"/> 0 NO <input type="checkbox"/> 1 YES	<input type="checkbox"/> 0 NO <input type="checkbox"/> 1 YES, IN THE U.S.A. <input type="checkbox"/> 2 YES, "AB": <input type="text"/>

NQ – QUALITY OF AND ACCESS TO HEALTH CARE SECTION

[INTERVIEWER]: I would like to ask you a few final questions about health care in general. You may have given me some of this information already, but I would like to make sure it is correct.

NQ1 In the last TWO YEARS [LAST 24 MONTHS], in the U.S.A., have you used any type of health care services from doctors, nurses, dentists, clinics, or hospitals?

- ☐ 0 NO [SKIP TO NQ10]
☐ 1 YES

NQ3b ...And the last time you used the health care provider, where did you go (what kind of place was it)?

- ☐ 1 COMMUNITY HEALTH CENTER/
☐ 2 PRIVATE MEDICAL DOCTOR'S OFFICE/PRIVATE CLINIC
☐ 3 HEALER/ "CURANDERO"
☐ 4 HOSPITAL
☐ 5 EMERGENCY ROOM
☐ 6 MIGRANT HEALTH CLINIC
☐ 7 CHIROPRACTOR OR NATUROPATH'S OFFICE
☐ 8 DENTIST
☐ 10 OTHER:
☐ 97 DON'T KNOW

NQ5 And, ...the last time you used the health care provider, who paid the majority of the cost?

- ☐ 1 I PAID THE BILL OUT OF "MY OWN POCKET"
☐ 2 MEDICAID / MEDICARE
☐ 3 PUBLIC CLINIC DID NOT CHARGE
☐ 4 EMPLOYER PROVIDED HEALTH PLAN
☐ 5 SELF OR FAMILY BOUGHT INDIVIDUAL HEALTH PLAN
☐ 8 BILLED, BUT DID NOT PAY
☐ 9 WORKER'S COMPENSATION
☐ 6 OTHER:
☐ 7 COMBINATION OF:

NQ10 [ASK ALL]: ...When you NEED to get health care in the USA what are the main difficulties you face? [CHECK ALL THAT APPLY]

- ☐ m. I do not know. I've never needed it
☐ l. I'm "undocumented" / "no papers" (that's why they don't treat me well)
☐ a. No transportation, too far away
☐ b. Don't know where services are available
☐ c. Health Center not open when needed
☐ d. They don't provide the services I need
☐ e. They don't speak my language
☐ f. They don't treat me with respect / I don't feel welcomed
☐ g. They don't understand my problems
☐ h. I'll lose my job
☐ i. Too expensive/ no insurance
☐ j. Other:
☐ No difficulties / No problems

NQ1a. (How about) In a foreign country (e.g. Mexico), Have you used any type of health service in the last two years [LAST 24 MONTHS] [IF "YES," ASK AND ENTER COUNTRY]

- ☐ 0 NO
☐ 1 YES, IN:
 [NAME OF COUNTRY]

**PLEASE CHECK
IF RESPONDENT QUALIFIES FOR
THE INJURY SUPPLEMENT!
CHECK PAGE 18 (SCREENING SECTION)
IF RESPONDENT QUALIFIES, CONTINUE WITH
NEXT SECTION AND THEN
COMPLETE INJURY SUPPLEMENT!**

LEGAL STATUS

We are interested in knowing whether any of the following apply to you. Please be assured that no one besides us will know your response.

L1 What is your current legal status in the U.S.? [READ CHOICES IF NECESSARY]	L2 PROGRAMS [DO NOT READ OPTIONS]
<input type="checkbox"/> 1 I AM A U.S. CITIZEN BY BIRTH [SKIP TO NEXT PAGE]	<input type="checkbox"/> 1 AMNESTY UNDER 5 YEAR PROGRAM [TIME]
<input type="checkbox"/> 2 I AM A NATURALIZED U.S. CITIZEN (FOREIGN BORN, NATURALIZED). (ASK: "BEFORE BECOMING A NATURALIZED U.S. CITIZEN, UNDER WHICH PROGRAM DID YOU APPLY TO OBTAIN YOUR PERMANENT RESIDENCE?") [POSSIBLE ANSWERS IN L2: 1 - 9, 97]. THEN ASK: L4-1, L4-2, AND L4-3]	<input type="checkbox"/> 2 AMNESTY UNDER SAW (90 DAY) PROGRAM [FW - "FIELD WORK"]
<input type="checkbox"/> 3 PERMANENT RESIDENT/GREEN CARD (RIGHT TO RESIDE AND WORK IN THE U.S.) (ASK L2: "UNDER WHICH PROGRAM DID YOU APPLY?") [POSSIBLE ANSWERS: 1 HASTA 9 Y 97]. THEN ASK: L4-1 AND L4-2]	<input type="checkbox"/> 3 CUBAN/HAITIAN ENTRANT
<input type="checkbox"/> 4 BORDER CROSSING CARD/COMMUTER CARD (RIGHT TO CROSS THE BORDER AND WORK IN THE U.S.) (ASK L2: "UNDER WHICH PROGRAM DID YOU APPLY?") [POSSIBLE ANSWERS: 9, 12, 13, Y 97. THEN ASK: L3, L4-1 AND L4-2]	<input type="checkbox"/> 4 SPOUSAL PETITION PROGRAM/FAMILY UNITY
<input type="checkbox"/> 5 PENDING STATUS (WITHOUT DOCUMENTS, APPLIED, AWAITING OFFICIAL DECISION) (ASK L2: "UNDER WHICH PROGRAM DID YOU APPLY?") [POSSIBLE ANSWERS: 1- 9, 97. THEN ASK: L3, AND L41]	<input type="checkbox"/> 5 LABOR CERTIFICATION PROGRAM
<input type="checkbox"/> 6 UNDOCUMENTED (APPLICATION DENIED/DID NOT APPLY TO ANY PROGRAMS) [POSSIBLE ANSWERS: "NONE". SKIP TO NEXT PAGE]	<input type="checkbox"/> 6 REGISTRY PROGRAM
<input type="checkbox"/> 7 TEMPORARY RESIDENT - NON IMMIGRANT VISA (ONLY FOR SPECIFIED TIME) [ASK L2: "UNDER WHICH PROGRAM DID YOU APPLY?" POSSIBLE ANSWERS: 10 - 97. THEN ASK: L3 AND L41]	<input type="checkbox"/> 7 POLITICAL ASYLUM
<input type="checkbox"/> 8 OTHER [IF RELEVANT AND APPROPRIATE ASK L2, L3, L4-1, L4-2, AND L4-3. THEN SKIP TO NEXT PAGE]:	<input type="checkbox"/> 8 REFUGEE
	<input type="checkbox"/> 9 PROTECTIVE STATUS (TEMPORARY)
	<input type="checkbox"/> 10 GUEST WORKER PROGRAM ["BRACERO"]
	<input type="checkbox"/> 11 STUDENT
	<input type="checkbox"/> 12 TOURIST
	<input type="checkbox"/> 13 BORDER CROSSING CARD/ "PASSPORT"
	<input type="checkbox"/> 97 OTHER: <input type="text"/>
	<input type="checkbox"/> 99 NOT ANSWERED

L3 Do you have general work authorization?:

☐ 0 NO

☐ 1 YES

☐ 7 DON'T KNOW

☐ 9 NOT ANSWERED

L4 DATE STATUS BECAME EFFECTIVE:		
1 When did you apply to the program (in L2)?	2 [Only for those who responded "2,3, or 4" in L1]: When did you obtain your legal status?	3 [Only for those who responded "2" in L1]: When did you obtain your naturalization/ become a U.S. citizen?
<div> <div></div> <div></div> <div>/</div> <div></div> <div></div> <div></div> <div></div> </div> <div>(Month) / (Year)</div>	<div> <div></div> <div></div> <div>/</div> <div></div> <div></div> <div></div> <div></div> </div> <div>(Month) / (Year)</div>	<div> <div></div> <div></div> <div>/</div> <div></div> <div></div> <div></div> <div></div> </div> <div>(Month) / (Year)</div>



JBS International, Inc.
Aguirre Division
555 Airport Boulevard, Suite 400
Burlingame, CA 94010-2002
Phone: 650.373.4900
Fax: 650.348.0260

INDIVIDUAL AGREEMENT TO BE A RESEARCH SUBJECT
OMB CONTROL NUMBER: 1205-0453

INTRODUCTION/PURPOSE

You are invited to participate in this survey for the National Institute for Occupational Safety and Health and the Department of Labor because you are currently working on a farm. The purpose of the survey is to learn more about the living conditions and health of farm workers.

PROCEDURES TO BE FOLLOWED

You will be asked to answer some questions about your work history and about your health. The interview will last approximately 60 minutes.

RISKS

Since we will only be asking you questions, there is very little risk to you as a result of being in the survey. You may refuse to answer any question at any time, with no penalty.

BENEFITS

There are no direct benefits to you from being in the survey. But, knowledge gained through this research may help us learn how to prevent any harmful effects of farm work for workers like you.

PRIVACY

Your answers to the interview will be kept private to the extent allowed by law. This means that the interview record will be kept in a locked file, and only researchers on the survey will be allowed to see it. Your name will not appear on any reports about the survey. (See back of page for details.)

ALTERNATIVES TO PARTICIPATION

Participating in this survey is voluntary and you can quit at any time. You can also choose not to participate in any part of the interview at any time, with no penalty. Whether or not you participate in this survey will not affect benefits and services to which you are normally entitled. You will be paid for the time you are spending in this interview. At any time, you may ask the researchers to explain any part of the survey.

WHO TO CALL WITH QUESTIONS

If you have questions about the research survey, including questions about your rights as a research subject, you may call Aguirre International (toll free) at 877- SAY-NAWS (or 877-729-6297). They will refer your questions to Daniel Carroll at the Department of Labor, at (202) 693-2795.

I have read and understand the statement above. My questions about any unclear or confusing statements have been answered clearly. I agree to participate in this survey as a research subject. I admit that I have received a copy of this form and \$20 for my participation.

Signature of Subject

Date

(See reverse)

In accordance with the Privacy Act of 1974, as amended (5 U.S.C.552a), we are notifying you that this study is authorized by the U.S. Department of Labor, Employment and Training Administration (ETA). Your voluntary participation is important to the success of this study and will enable the ETA to understand the labor market and living experiences of U.S. farmworkers. Under written agreement with research organizations, the ETA may release certain information necessary for research but only after all identifying information has been removed. Unless required by law, or necessary for litigation or legal proceedings and except as indicated in this statement, we will hold all personal identifiers (e.g. name, address, and social security number) in total confidence and will not release them.

Notwithstanding any other provision of law, no person is required to respond to nor shall a person be subject to a penalty for failure to comply with a collection of information subject to the requirements of the Paperwork Reduction Act unless that collection of information displays a currently valid Office of Management and Budget control number. Public reporting burden for this collection of information, which is voluntary, is estimated to average 1 hour (or 60 minutes) per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate to the Office of Policy, Development and Evaluation, ETA, Department of Labor, Room N5641, 200 Constitution Avenue, N.W., Washington, D.C. 20210.



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ALTERNATIVES TO PARTICIPATION

Participating in this survey is voluntary and you can quit at any time. You can also choose not to participate in any part of the interview at any time, with no penalty. Whether or not you participate in this survey will not affect benefits and services to which you are normally entitled. You will be paid for the time you are spending in this interview. At any time, you may ask the researchers to explain any part of the survey.

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(See reverse)

Signature of Subject

Date

In accordance with the Privacy Act of 1974, as amended (5 U.S.C.552a), we are notifying you that this study is authorized by the U.S. Department of Labor, Employment and Training Administration (ETA). Your voluntary participation is important to the success of this study and will enable the ETA to understand the labor market and living experiences of U.S. farmworkers. Under written agreement with research organizations, the ETA may release certain information necessary for research but only after all identifying information has been removed. Unless required by law, or necessary for litigation or legal proceedings and except as indicated in this statement, we will hold all personal identifiers (e.g. name, address, and social security number) in total confidence and will not release them.

Notwithstanding any other provision of law, no person is required to respond to nor shall a person be subject to a penalty for failure to comply with a collection of information subject to the requirements of the Paperwork Reduction Act unless that collection of information displays a currently valid Office of Management and Budget control number. Public reporting burden for this collection of information, which is voluntary, is estimated to average 1 hour (or 60 minutes) per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate to the Office of Policy, Development and Evaluation, ETA, Department of Labor, Room N5641, 200 Constitution Avenue, N.W., Washington, D.C. 20210.

Appendix D: Brochure to Recruit Workers (Available Only in English)



How can you obtain NAWS research reports?

NAWS research reports are available at no charge. For a list of publications, contact the project directors listed below or visit the U. S. Department of Labor's Website at www.doleta.gov/agworker/naws.cfm

Daniel Carroll
US Department of Labor
Employment & Training Administration
200 Constitution Ave., NW, Rm N-5641
Washington, DC 20210
(202) 693-2795
Carroll.Daniel.J@dol.gov

Dr. Susan Gabbard
JBS International
Aguirre Division
555 Airport Boulevard
Suite 400
Burlingame, CA 94010
(866) YES-NAWS or (866) 937-6297
sgabbard@jbsinternational.com

Reliable Information About Hired Farm Workers

U.S. DEPARTMENT OF LABOR

National Agricultural Workers Survey

What is NAWS?

- ★ NAWS is a survey of **hired** farm workers (including year-round or permanent, migrant, seasonal and nursery workers) in the United States. **JBS International** is contracted by the United States Department of Labor (US DOL) to conduct NAWS.
- ★ NAWS is the only nationwide information source that describes the characteristics and employment profiles of hired farm workers, and trends in the hired farm labor market.
- ★ NAWS began in 1988. Since then, over 50,000 workers have been interviewed.
- ★ NAWS is strictly **confidential**. Names and addresses of participants are guaranteed to be kept private by the **Privacy Act of 1974** and will not be divulged in any way.
- ★ Farm workers are reimbursed for participating in the survey.

What information does NAWS collect?

- ★ **About farm workers:** The survey solicits from each interviewed worker his/her English language proficiency, yearly income, use of social services, and access to health care.
- ★ **About farm workers' employment history:** NAWS asks the worker to describe his/her work history for the year prior to the interview.
- ★ **About farm workers' households:** The survey obtains information on the number of family members, their level of education, and how often they move.

Why agricultural employers participate in the survey?

- ★ Agricultural employers and grower organizations utilize NAWS data to stay informed about important evolving trends in the make-up of the hired farm workforce.
- ★ Providers of housing, health, education, and employment training services utilize NAWS data to both identify farm workers' needs and to target their program resources.

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Appendix E: H-2A Work Order Application

OMB Approval: 1205-0466
Expiration Date: 05/31/2016

H-2A Application for Temporary Employment Certification ETA Form 9142A U.S. Department of Labor



Please read and review the filing instructions carefully before completing the ETA Form 9142A. A copy of the instructions can be found at <http://www.foreignlaborcert.dola.gov/>. In accordance with Federal Regulations, incomplete or obviously inaccurate applications will not be certified by the Department of Labor. If submitting this form non-electronically, ALL required fields/items containing an asterisk (*) must be completed as well as any fields/items where a response is conditional as indicated by the section (§) symbol.

A. Employment-Based Nonimmigrant Visa Information

1. Indicate the type of visa classification supported by this application (Write classification symbol): *	
------------------------------------------------------------------------------------------------------------	--

B. Temporary Need Information

1. Job Title *	
2. SOC (ONET/OES) code *	3. SOC (ONET/OES) occupation title *
4. Is this a full-time position? *	Period of Intended Employment
<input type="checkbox"/> Yes <input type="checkbox"/> No	5. Begin Date * (mm/dd/yyyy)
	6. End Date * (mm/dd/yyyy)
7. Worker positions needed/basis for the visa classification supported by this application	
<input type="text"/> Total Worker Positions Being Requested for Certification *	
Basis for the visa classification supported by this application (indicate the total workers in each applicable category based on the total workers identified above)	
<input type="text"/> a. New employment *	<input type="text"/> d. New concurrent employment *
<input type="text"/> b. Continuation of previously approved employment * without change with the same employer	<input type="text"/> e. Change in employer *
<input type="text"/> c. Change in previously approved employment *	<input type="text"/> f. Amended petition *
8. Nature of Temporary Need: (Choose only one of the standards) *	
<input type="checkbox"/> Seasonal <input type="checkbox"/> Peakload <input type="checkbox"/> One-Time Occurrence <input type="checkbox"/> Intermittent or Other Temporary Need	
9. Statement of Temporary Need *	

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Case Number: _____ Case Status: _____ Validity Period: _____ to _____

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C. Employer Information

Important Note: Enter the full name of the individual employer, partnership, or corporation and all other required information in this section. For joint employer or master applications filed on behalf of more than one employer under the H-2A program, identify the main or primary employer in the section below and then submit a separate attachment that identifies each employer, by name, mailing address, and total worker positions needed, under the application.

1. Legal business name *		
2. Trade name/Doing Business As (DBA), if applicable		
3. Address 1 *		
4. Address 2		
5. City *	6. State *	7. Postal code *
8. Country *	9. Province	
10. Telephone number *	11. Extension	
12. Federal Employer Identification Number (FEIN from IRS) *	13. NAICS code (must be at least 4-digits) *	
14. Number of non-family full-time equivalent employees	15. Annual gross revenue	16. Year established
17. Type of employer application (choose only one box below) *		
<input type="checkbox"/> Individual Employer		
<input type="checkbox"/> H-2A Labor Contractor or Job Contractor		
<input type="checkbox"/> Association – Sole Employer (H-2A only)		
<input type="checkbox"/> Association – Joint Employer (H-2A only)		
<input type="checkbox"/> Association – Filing as Agent (H-2A only)		

D. Employer Point of Contact Information

Important Note: The information contained in this Section must be that of an employee of the employer who is authorized to act on behalf of the employer in labor certification matters. The information in this Section must be different from the agent or attorney information listed in Section E, unless the attorney is an employee of the employer. For joint employer or master applications filed on behalf of more than one employer under the H-2A program, enter only the contact information for the main or primary employer (e.g., contact for an association filing as joint employer) under the application.

1. Contact's last (family) name *	2. First (given) name	3. Middle name(s)
4. Contact's job title *		
5. Address 1 *		
6. Address 2		
7. City *	8. State *	9. Postal code *
10. Country *	11. Province	
12. Telephone number *	13. Extension	14. E-Mail address

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E. Attorney or Agent Information (If applicable)

1. Is/are the employer(s) represented by an attorney or agent in the filing of this application (including associations acting as agent under the H-2A program)? If "Yes", complete Section E. *			<input type="checkbox"/> Yes <input type="checkbox"/> No
2. Attorney or Agent's last (family) name §	3. First (given) name §	4. Middle name	
5. Address 1 §			
6. Address 2			
7. City §		8. State	9. Postal code §
10. Country §		11. Province	
12. Telephone number §	13. Extension	14. E-Mail address	
15. Law firm/Business name §		16. Law firm/Business FEIN §	
17. State Bar number (only if attorney) §		18. State of highest court where attorney is in good standing (only if attorney) §	
19. Name of the highest court where attorney is in good standing (only if attorney) §			

F. Job Offer Information

a. Job Description

1. Job Title *	
2. Number of hours of work per week Basic *: _____ Overtime: _____	3. Hourly Work Schedule * A.M. (h:mm): ____ : ____ P.M. (h:mm): ____ : ____
4. Does this position supervise the work of other employees? * <input type="checkbox"/> Yes <input type="checkbox"/> No	4a. If yes, number of employees worker will supervise (if applicable) § _____
5. Job duties – A description of the duties to be performed MUST begin in this space. If necessary, add attachment to <u>continue and complete</u> description. *	

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F. Job Offer Information (continued)

b. Minimum Job Requirements

1. Education: minimum U.S. diploma/degree required *	
<input type="checkbox"/> None <input type="checkbox"/> High School/GED <input type="checkbox"/> Associate's <input type="checkbox"/> Bachelor's <input type="checkbox"/> Master's <input type="checkbox"/> Doctorate (PhD) <input type="checkbox"/> Other degree (JD, MD, etc.)	
1a. If "Other degree" in question 1, specify the diploma/degree required §	1b. Indicate the major(s) and/or field(s) of study required § (May list more than one related major and more than one field)
2. Does the employer require a second U.S. diploma/degree? *	
<input type="checkbox"/> Yes <input type="checkbox"/> No	
2a. If "Yes" in question 2, indicate the second U.S. diploma/degree and the major(s) and/or field(s) of study required §	
3. Is training for the job opportunity required? *	
<input type="checkbox"/> Yes <input type="checkbox"/> No	
3a. If "Yes" in question 3, specify the number of months of training required §	3b. Indicate the field(s)/name(s) of training required § (May list more than one related field and more than one type)
4. Is employment experience required? *	
<input type="checkbox"/> Yes <input type="checkbox"/> No	
4a. If "Yes" in question 4, specify the number of months of experience required §	4b. Indicate the occupation required §
5. Special Requirements - List specific skills, licenses/certifications, and requirements of the job opportunity. *	

c. Place of Employment Information

1. Worksite address 1 *	
2. Address 2	
3. City *	4. County *
5. State/District/Territory *	6. Postal code *
7. Will work be performed in multiple worksites within an area of intended employment or at location(s) other than the address listed above? *	
<input type="checkbox"/> Yes <input type="checkbox"/> No	
7a. If Yes in question 7, identify the geographic place(s) of employment with as much specificity as possible. If necessary, submit an attachment to <u>continue and complete</u> a listing of all anticipated worksites. §	

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G. Rate of Pay

1. Basic Rate of Pay Offered *		1a. Overtime Rate of Pay (if applicable) \$	
From: \$ ____ . ____ To (Optional): \$ ____ . ____		From: \$ ____ . ____ To (Optional): \$ ____ . ____	
2. Per: (Choose only one) * <input type="checkbox"/> Hour <input type="checkbox"/> Week <input type="checkbox"/> Bi-Weekly <input type="checkbox"/> Month <input type="checkbox"/> Year <input type="checkbox"/> Piece Rate			
2a. If Piece Rate is indicated in question 2, specify the wage offer requirements: \$			
3. Additional Wage Information (e.g., multiple worksite applications, itinerant work, or other special procedures). If necessary, add attachment to <u>continue and complete</u> description. \$			

H. Recruitment Information

1. Name of State Workforce Agency (SWA) serving the area of intended employment *		
2. SWA job order identification number	2a. Start date of SWA job order *	2b. End date of SWA job order *
3. Is there a Sunday edition of a newspaper (of general circulation) in the area of intended employment? *		<input type="checkbox"/> Yes <input type="checkbox"/> No
Name of Newspaper/Publication (in area of intended employment for H-2B only) *		Dates of Print Advertisement \$
4.	From:	To:
5.	From:	To:
6. Additional Recruitment Activities for H-2B program. Use the space below to identify the type(s) or source(s) of recruitment, geographic location(s) of recruitment, and the date(s) on which recruitment was conducted. If necessary, add attachment to <u>continue and complete</u> description. *		

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I. Declaration of Employer and Attorney/Agent

In accordance with Federal regulations, the employer must attest that it will abide by certain terms, assurances and obligations as a condition for receiving a temporary labor certification from the U.S. Department of Labor. Applications that fail to attach Appendix A or Appendix B will be considered incomplete and not accepted for processing by the ETA application processing center.

1. For H-2A Applications ONLY, please confirm that you have read and agree to all the applicable terms, assurances and obligations contained in Appendix A. §	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A
2. For H-2B Applications ONLY, please confirm that you have read and agree to all the applicable terms, assurances and obligations contained in Appendix B. §	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A

J. Preparer

Complete this section if the preparer of this application is a person other than the one identified in either Section D (employer point of contact) or E (attorney or agent) of this application.

1. Last (family) name §	2. First (given) name §	3. Middle name
4. Job Title §		
5. Firm/Business name §		
6. E-Mail address §		

K. U.S. Government Agency Use (ONLY)

Pursuant to the provisions of Section 101 (a)(15)(h)(ii) of the Immigration and Nationality Act, as amended, I hereby certify that there are not sufficient U.S. workers available and the employment of the above will not adversely affect the wages and working conditions of workers in the U.S. similarly employed. By virtue of the signature below, the Department of Labor hereby acknowledges the following:

This certification is valid from _____ to _____.

Department of Labor, Office of Foreign Labor Certification Determination Date (date signed) _____

Case number _____ Case Status _____

Public Burden Statement (1205-0466)

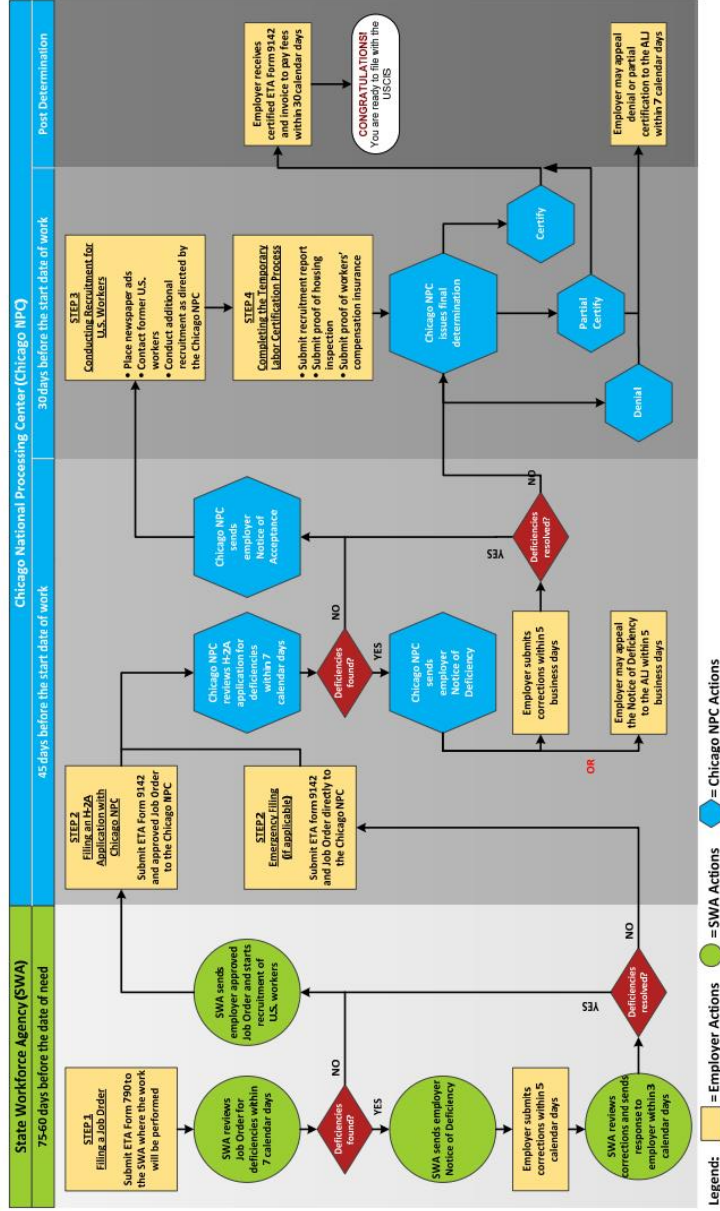
Persons are not required to respond to this collection of information unless it displays a currently valid OMB control number. Public reporting burden for this collection of information is estimated to average 1 hour to complete the form and 20 minutes per response for all other H-2A information collection requirements, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. The obligation to respond to this data collection is required to obtain/retain benefits (Immigration and Nationality Act, 8 U.S.C. 1101, et seq.). Please send comments regarding this burden estimate or any other aspect of this information collection to the Office of Foreign Labor Certification * U.S. Department of Labor * Room C4312 * 200 Constitution Ave., NW, * Washington, DC * 20210 or by email ETA.OFLC.Forms@dol.gov. **Please do not send the completed application to this address.**

Appendix F: Organizational Chart for the Employment & Training Administration



Appendix G: H-2A Application Process Flow Chart

Appendix C. H-2A Application Process Flow Chart



Legend: ● = Employer Actions ● = SWA Actions ● = Chicago NPC Actions

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